

DRAFT LBDC

AN ACT to amend the racing, pari-mutuel wagering and breeding law, the penal law and the state finance law, in relation to commercial gaming; to amend the executive law, the state finance law and the Indian law, in relation to authorizing the settlement of disputes between the Oneida Nation of New York, the state, Oneida county and Madison county; to amend the Indian law and the tax law, in relation to identifying nations and tribes; to amend the election law, in relation to expenditure reporting; to repeal section 11 of the executive law relating to fuel and energy shortage state of emergency; to repeal section 109-a of the racing, pari-mutuel wagering and breeding law relating to labor peace agreements; and to repeal clause (G) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law relating to vendor's fees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "upstate  
2 New York gaming economic development act of 2013."  
3 § 2. The racing, pari-mutuel wagering and breeding law is amended by  
4 adding a new article 13 to read as follows:

ARTICLE 13

DESTINATION RESORT GAMING

## 7 Title 1. General provisions

- 2. Facility determination and licensing
  - 3. Occupational licensing
  - 4. Enterprise and vendor licensing and registration
  - 5. Requirements for conduct and operation of gaming
  - 6. Taxation and fees
  - 7. Minority and women-owned business enterprises
  - 8. Problem gambling
  - 9. Miscellaneous provisions
  - 10. Gaming inspector general

1                           TITLE 1

2                           GENERAL PROVISIONS

3   Section 1300. Legislative findings and purpose.

4   1301. Definitions.

5   1302. Auditing duties of the commission.

6   1303. Equipment testing.

7   1304. Commission reporting.

8   1305. Supplemental power of the commission.

9   1306. Powers of the board.

10   1307. Required regulations.

11   1308. Reports and recommendations.

12   1309. Severability and preemption.

13   § 1300. Legislative findings and purpose. The legislature hereby  
14   finds and declares that:

15   1. New York state is already in the business of gambling with nine  
16   video lottery facilities, five tribal class III casinos, and three  
17   tribal class II facilities;

18   2. New York state has more electronic gaming machines than any state  
19   in the Northeast or Mideast;

20   3. While gambling already exists throughout the state, the state does  
21   not fully capitalize on the economic development potential of legalized  
22   gambling;

23   4. In phase one of its casino development, the state should authorize  
24   four destination resort casinos in upstate New York;

25   5. Four upstate casinos can boost economic development, create thou-  
26   sands of well-paying jobs and provide added revenue to the state;

27   6. The upstate tourism industry constitutes a critical component of  
28   our state's economic infrastructure and that four upstate casinos will

1 attract non-New York residents and bring downstate New Yorkers to  
2 upstate;

3 7. The casino sites and the licensed owners shall be selected on  
4 merit;

5 8. Local impact of the casino sites will be considered in the casino  
6 evaluation process;

7 9. Tribes whose gaming compacts are in good standing with the state  
8 will have their geographic exclusivity protected by this article;

9 10. Revenue realized from casinos shall be utilized to increase  
10 support for education beyond that of the state's education formulae and  
11 to provide real property tax relief to localities;

12 11. Casinos will be tightly and strictly regulated by the commission  
13 to guarantee public confidence and trust in the credibility and integri-  
14 ty of all casino gambling in the state and to prevent organized crime  
15 from any involvement in the casino industry;

16 12. The need for strict state controls extends to regulation of all  
17 persons, locations, practices and associations related to the operation  
18 of licensed enterprises and all related service industries as provided  
19 in this article;

20 13. The state and the casinos will develop programs and resources to  
21 combat compulsive and problem gambling;

22 14. The state will ensure that host municipalities of casinos are  
23 provided with funding to limit any potential adverse impacts of casinos;

24 15. Political contributions from the casino industry will be minimized  
25 to reduce the potential of political corruption from casinos; and

26 16. As thoroughly and pervasively regulated by the state, four upstate  
27 casinos will work to the betterment of all New York.

1       § 1301. Definitions. As used in this article the following terms  
2 shall, unless the context clearly requires otherwise, have the following  
3 meanings:

4       1. "Affiliate". A person that directly or indirectly, through one or  
5 more intermediaries, controls or is controlled by, or is under common  
6 control with, a specified person.

7       2. "Applicant". Any person who on his or her own behalf or on behalf  
8 of another has applied for permission to engage in any act or activity  
9 which is regulated under the provisions of this article.

10      3. "Application". A written request for permission to engage in any  
11 act or activity which is regulated under the provisions of this article.

12      4. "Authorized game". Any game determined by the commission to be  
13 compatible with the public interest and to be suitable for casino use  
14 after such appropriate test or experimental period as the commission may  
15 deem appropriate. An authorized game may include gaming tournaments in  
16 which players compete against one another in one or more of the games  
17 authorized herein or by the commission or in approved variations or  
18 composites thereof if the tournaments are authorized.

19      5. "Board". The New York state gaming commission or a board estab-  
20 lished by the commission pursuant to section one hundred nine-a of this  
21 chapter.

22      6. "Business". A corporation, sole proprietorship, partnership, limit-  
23 ed liability company or any other organization formed for the purpose of  
24 carrying on a commercial enterprise.

25      7. "Casino". One or more locations or rooms in a gaming facility that  
26 have been approved by the commission for the conduct of gaming in  
27 accordance with the provisions of this article.

1       8. "Casino employee". Any natural person, not otherwise included in  
2       the definition of casino key employee, who is employed by a gaming  
3       facility licensee, or a holding or intermediary company of a gaming  
4       facility licensee, and is involved in the operation of a licensed gaming  
5       facility or performs services or duties in a gaming facility or a  
6       restricted casino area; or any other natural person whose employment  
7       duties predominantly involve the maintenance or operation of gaming  
8       activity or equipment and assets associated therewith or who, in the  
9       judgment of the commission, is so regularly required to work in a  
10      restricted casino area that registration as a casino employee is appro-  
11      priate.

12      9. "Casino key employee". Any natural person employed by a gaming  
13      facility licensee, or holding or intermediary company of a gaming facil-  
14      ity licensee, and involved in the operation of a licensed gaming facili-  
15      ty in a supervisory capacity or empowered to make discretionary deci-  
16      sions which regulate gaming facility operations; or any other employee  
17      so designated by the commission for reasons consistent with the policies  
18      of this article.

19      10. "Casino vendor enterprise". Any vendor offering goods or services  
20      which directly relate to casino or gaming activity, or any vendor  
21      providing to gaming facility licensees or applicants goods and services  
22      ancillary to gaming activity. Notwithstanding the foregoing, any form of  
23      enterprise engaged in the manufacture, sale, distribution, testing or  
24      repair of slot machines within the state, other than antique slot  
25      machines, shall be considered a casino vendor enterprise for the  
26      purposes of this article regardless of the nature of its business  
27      relationship, if any, with gaming facility applicants and licensees in  
28      this state.

1       11. "Close associate". A person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a gaming facility or business licensed under this article.

6       12. "Commission". The New York state gaming commission.

7       13. "Complimentary service or item". A service or item provided at no cost or at a reduced cost to a patron of a gaming facility.

9       14. "Conservator". A person appointed by the commission to temporarily manage the operation of a gaming facility.

11      15. "Credit card". A card, code or other device with which a person may defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor, but not a card, code or other device used to activate a preexisting agreement between a person and a financial institution to extend credit when the person's account at the financial institution is overdrawn or to maintain a specified minimum balance in the person's account at the financial institution.

18      16. "Debt". Any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent, including debt convertible into an equity security which has not yet been so converted, and any other debt carrying any warrant or right to subscribe to or purchase an equity security which warrant or right has not yet been exercised.

24      17. "Encumbrance". A mortgage, security interest, lien or charge of any nature in or upon property.

26      18. "Executive director". The executive director of the New York state gaming commission.

1       19. "Family". Spouse, domestic partner, partner in a civil union,  
2       parents, grandparents, children, grandchildren, siblings, uncles, aunts,  
3       nephews, nieces, fathers-in-law, mothers-in-law, daughters-in-law, sons-  
4       in-law, brothers-in-law and sisters-in-law, whether by the whole or half  
5       blood, by marriage, adoption or natural relationship.

6       20. "Game". Any banking or percentage game located within the gaming  
7       facility played with cards, dice, tiles, dominoes, or any electronic,  
8       electrical, or mechanical device or machine for money, property, or any  
9       representative of value which has been approved by the commission.

10      21. "Gaming" or "gambling". The dealing, operating, carrying on,  
11      conducting, maintaining or exposing for pay of any game.

12      22. "Gaming device" or "gaming equipment". Any electronic, electrical,  
13      or mechanical contrivance or machine used in connection with gaming or  
14      any game.

15      23. "Gaming facility". The premises approved under a gaming license  
16      which includes a gaming area and any other nongaming structure related  
17      to the gaming area and may include, but shall not be limited to, hotels,  
18      restaurants or other amenities.

19      24. "Gaming facility license". Any license issued pursuant to this  
20      article which authorizes the holder thereof to own or operate a gaming  
21      facility.

22      25. "Gross gaming revenue". The total of all sums actually received by  
23      a gaming facility licensee from gaming operations less the total of all  
24      sums paid out as winnings to patrons; provided, however, that the total  
25      of all sums paid out as winnings to patrons shall not include the cash  
26      equivalent value of any merchandise or thing of value included in a  
27      jackpot or payout; provided further, that the issuance to or wagering by

1 patrons of a gaming facility of any promotional gaming credit shall not  
2 be taxable for the purposes of determining gross revenue.

3 26. "Holding company". A corporation, association, firm, partnership,  
4 trust or other form of business organization, other than a natural  
5 person, which, directly or indirectly, owns, has the power or right to  
6 control, or has the power to vote any significant part of the outstand-  
7 ing voting securities of a corporation or any other form of business  
8 organization which holds or applies for a gaming license; provided,  
9 however, that a "holding company", in addition to any other reasonable  
10 use of the term, shall indirectly have, hold or own any such power,  
11 right or security if it does so through an interest in a subsidiary or  
12 any successive subsidiaries, notwithstanding how many such subsidiaries  
13 may intervene between the holding company and the gaming facility licen-  
14 see or applicant.

15 27. "Host municipality". A city, town or village in which a gaming  
16 facility is located or in which an applicant has proposed locating a  
17 gaming facility.

18 28. "Intermediary company". A corporation, association, firm, partner-  
19 ship, trust or other form of business organization, other than a natural  
20 person, which is a holding company with respect to a corporation or  
21 other form of business organization which holds or applies for a gaming  
22 license, and is a subsidiary with respect to a holding company.

23 29. "Junket". An arrangement intended to induce a person to come to a  
24 gaming facility to gamble, where the person is selected or approved for  
25 participation on the basis of the person's ability to satisfy a finan-  
26 cial qualification obligation related to the person's ability or will-  
27 ingness to gamble or on any other basis related to the person's propen-  
28 sity to gamble and pursuant to which and as consideration for which, any

1 of the cost of transportation, food, lodging, and entertainment for the  
2 person is directly or indirectly paid by a gaming facility licensee or  
3 an affiliate of the gaming facility licensee.

4 30. "Junket enterprise". A person, other than a gaming facility licen-  
5 see or an applicant for a gaming facility license, who employs or other-  
6 wise engages the services of a junket representative in connection with  
7 a junket to a licensed gaming facility, regardless of whether or not  
8 those activities occur within the state.

9 31. "Junket representative". A person who negotiates the terms of, or  
10 engages in the referral, procurement or selection of persons who may  
11 participate in, a junket to a gaming facility, regardless of whether or  
12 not those activities occur within the state.

13 32. "Operation certificate". A certificate issued by the commission  
14 which certifies that operation of a gaming facility conforms to the  
15 requirements of this article and applicable regulations and that its  
16 personnel and procedures are sufficient and prepared to entertain the  
17 public.

18 33. "Person". Any corporation, association, operation, firm, partner-  
19 ship, trust or other form of business association, as well as a natural  
20 person.

21 34. "Registration". Any requirement other than one which requires a  
22 license as a prerequisite to conduct a particular business as specified  
23 by this article.

24 35. "Registrant". Any person who is registered pursuant to the  
25 provisions of this article.

26 36. "Restricted casino areas". The cashier's cage, the soft count  
27 room, the hard count room, the slot cage booths and runway areas, the  
28 interior of table game pits, the surveillance room and catwalk areas,

1   the slot machine repair room and any other area specifically designated  
2   by the commission as restricted in a licensee's operation certificate.

3   37. "Qualification" or "qualified". The process of licensure set forth  
4   by the commission to determine that all persons who have a professional  
5   interest in a gaming facility license, or casino vendor enterprise  
6   license, or the business of a gaming facility licensee or gaming vendor,  
7   meet the same standards of suitability to operate or conduct business  
8   with a gaming facility.

9   38. "Slot machine". A mechanical, electrical or other device, contri-  
10   bance or machine which, upon insertion of a coin, token or similar  
11   object therein, or upon payment of any consideration whatsoever, is  
12   available to play or operate, the play or operation of which, whether by  
13   reason of the skill of the operator or application of the element of  
14   chance, or both, may deliver or entitle the individual playing or oper-  
15   ating the machine to receive cash, or tokens to be exchanged for cash,  
16   or to receive merchandise or any other thing of value, whether the  
17   payoff is made automatically from the machine or in any other manner,  
18   except that the cash equivalent value of any merchandise or other thing  
19   of value shall not be included in determining the payout percentage of a  
20   slot machine.

21   39. "Sports wagering". The activity authorized by section one thousand  
22   three hundred sixty-seven of this article, provided that there has been  
23   a change in federal law authorizing such activity or upon ruling of a  
24   court of competent jurisdiction that such activity is lawful.

25   40. "Subsidiary". A corporation, a significant part of whose outstand-  
26   ing equity securities are owned, subject to a power or right of control,  
27   or held with power to vote, by a holding company or an intermediary  
28   company, or a significant interest in a firm, association, partnership,

1 trust or other form of business organization, other than a natural  
2 person, which is owned, subject to a power or right of control, or held  
3 with power to vote, by a holding company or an intermediary company.

4 41. "Table game". A game, other than a slot machine, which is authorized  
5 by the commission to be played in a gaming facility.

6 42. "Transfer". The sale or other method, either directly or indirectly,  
7 of disposing of or parting with property or an interest therein, or  
8 the possession thereof, or of fixing a lien upon property or upon an  
9 interest therein, absolutely or conditionally, voluntarily or involun-  
10 tarily, by or without judicial proceedings, as a conveyance, sale,  
11 payment, pledge, mortgage, lien, encumbrance, gift, security or other-  
12 wise; provided, however, that the retention of a security interest in  
13 property delivered to a corporation shall be deemed a transfer suffered  
14 by such corporation.

15 § 1302. Auditing duties of the commission. The commission shall audit  
16 as often as the commission determines necessary, but not less than annu-  
17 ally, the accounts, programs, activities, and functions of all gaming  
18 facility licensees, including the audit of payments made pursuant to  
19 section one thousand three hundred fifty-one of this chapter. To  
20 conduct the audit, authorized officers and employees of the commission  
21 shall have access to such accounts at reasonable times and the commis-  
22 sion may require the production of books, documents, vouchers and other  
23 records relating to any matter within the scope of the audit. All audits  
24 shall be conducted in accordance with generally accepted auditing stand-  
25 ards established by the American Institute of Certified Public Account-  
26 ants. In any audit report of the accounts, funds, programs, activities  
27 and functions of a gaming facility licensee issued by the commission  
28 containing adverse or critical audit results, the commission may require

1   a response, in writing, to the audit results. The response shall be  
2   forwarded to the commission within fifteen days of notification by the  
3   commission.

4   § 1303. Equipment testing. Unless the commission otherwise determines  
5   it to be in the best interests of the state, the commission shall  
6   utilize the services of an independent testing laboratory that has been  
7   qualified and approved by the commission pursuant to this article to  
8   perform the testing of slot machines and other gaming equipment and may  
9   also utilize applicable data from the independent testing laboratory, or  
10   from a governmental agency of a state other than New York, authorized to  
11   regulate slot machines and other gaming equipment.

12   § 1304. Commission reporting. The commission shall report monthly to  
13   the governor, the senate and the assembly, the senate finance committee  
14   and the assembly ways and means committee, and the chairs of the senate  
15   racing, gaming and wagering committee and the assembly racing and wager-  
16   ing committee on economic development and emerging technologies on the  
17   total gaming revenues, prize disbursements and other expenses for the  
18   preceding month and shall make an annual report to the same recipients  
19   which shall include a full and complete statement of gaming revenues,  
20   prize disbursements and other expenses, including such recommendations  
21   as the commission considers necessary or advisable. The commission shall  
22   also report immediately to the aforementioned on any matter which  
23   requires immediate changes in the laws in order to prevent abuses or  
24   evasions of the laws, rules or regulations related to gaming or to  
25   rectify undesirable conditions in connection with the administration or  
26   operation of gaming in the state.

1       § 1305. Supplemental power of the commission. The commission shall  
2       have all powers necessary or convenient to carry out and effectuate its  
3       purposes including, but not limited to, the power to:  
4       1. execute all instruments necessary or convenient for accomplishing  
5       the purposes of this article;  
6       2. enter into agreements or other transactions with a person, includ-  
7       ing, but not limited to, a public entity or other governmental instru-  
8       mentality or authority in connection with its powers and duties under  
9       this article;  
10      3. require an applicant for a position which requires a license under  
11     this article to apply for such license and approve or disapprove any  
12     such application or other transactions, events and processes as provided  
13     in this article;  
14      4. require a person who has a business association of any kind with a  
15     gaming licensee or applicant to be qualified for licensure under this  
16     article;  
17      5. determine a suitable debt-to-equity ratio for applicants for a  
18     gaming license;  
19      6. deny an application or limit, condition, restrict, revoke or  
20     suspend a license, registration, finding of suitability or approval, or  
21     fine a person licensed, registered, found suitable or approved for any  
22     cause that the commission deems reasonable;  
23      7. monitor the conduct of licensees and other persons having a materi-  
24     al involvement, directly or indirectly, with a licensee for the purpose  
25     of ensuring that licenses are not issued to or held by and that there is  
26     no direct or indirect material involvement with a licensee, by an  
27     unqualified or unsuitable person or by a person whose operations are

1   conducted in an unsuitable manner or in unsuitable or prohibited places  
2   as provided in this article;

3    8. gather facts and information applicable to the commission's obli-  
4    gation to issue, suspend or revoke licenses, work permits or registra-  
5    tions for:

6      (a) a violation of this article or any regulation adopted by the  
7      commission;

8      (b) willfully violating an order of the commission directed to a  
9      licensee;

10     (c) the conviction of certain criminal offenses; or  
11     (d) the violation of any other offense which would disqualify such a  
12     licensee from holding a license, work permit or registration;

13     9. conduct investigations into the qualifications of any regulated  
14     entity and all applicants for licensure;

15     10. request and receive from the division of criminal justice services  
16     and the federal bureau of investigation, such criminal history record  
17     information as necessary for the purpose of evaluating applicants for  
18     employment by any regulated entity, and evaluating licensees and appli-  
19     cants for licensure under this article;

20     11. be present, through its agents, at all times, in a gaming facility  
21     for the purposes of:

22       (a) certifying revenue;

23       (b) receiving complaints from the public relating to the conduct of  
24       gaming and wagering operations;

25       (c) examining records of revenues and procedures and inspecting and  
26       auditing all books, documents and records of licensees;

27       (d) conducting periodic reviews of operations and facilities for the  
28       purpose of regulations adopted hereunder; and

1       (e) exercising its oversight responsibilities with respect to gaming;

2       12. inspect and have access to all equipment and supplies in a gaming  
3       facility or on premises where gaming equipment is manufactured, sold or  
4       distributed;

5       13. seize and remove from the premises of a gaming licensee and  
6       impound any equipment, supplies, documents and records for the purpose  
7       of examination and inspection;

8       14. demand access to and inspect, examine, photocopy and audit all  
9       papers, books and records of any affiliate of a gaming licensee or  
10      gaming vendor whom the commission suspects is involved in the financing,  
11      operation or management of the gaming licensee or gaming vendor;  
12      provided, however, that the inspection, examination, photocopying and  
13      audit may take place on the affiliate's premises or elsewhere as practi-  
14      cable and in the presence of the affiliate or its agent;

15      15. require that the books and financial or other records or state-  
16      ments of a gaming licensee or gaming vendor be kept in a manner that the  
17      commission considers proper;

18      16. levy and collect assessments, fees, fines and interest and impose  
19      penalties and sanctions for a violation of this article or any regu-  
20      lations promulgated by the commission;

21      17. collect taxes, fees and interest under this article;

22      18. restrict, suspend or revoke licenses issued under this article;

23      19. refer cases for criminal prosecution to the appropriate federal,  
24      state or local authorities;

25      20. adopt, amend or repeal regulations for the implementation, admin-  
26      istration and enforcement of this article; and

27      21. determine a suitable duration for each license, registration or  
28      finding of suitability or approval.

1       § 1306. Powers of the board. The New York state resort gaming facility  
2       location board shall select, following a competitive process and subject  
3       to the restrictions of this article, no more than four entities to apply  
4       to the commission for gaming facility licenses. In exercising its  
5       authority, the board shall have all powers necessary or convenient to  
6       fully carry out and effectuate its purposes including, but not limited  
7       to, the following powers. The board shall:

8        1. issue a request for applications for zone two gaming facility  
9       licenses pursuant to section one thousand three hundred twelve of this  
10      article;

11      2. assist the commission in prescribing the form of the application  
12      for zone two gaming facility licenses including information to be  
13      furnished by an applicant concerning an applicant's antecedents, habits,  
14      character, associates, criminal record, business activities and finan-  
15      cial affairs, past or present pursuant to section one thousand three  
16      hundred thirteen of this article;

17      3. develop criteria, in addition to those outlined in this article, to  
18      assess which applications provide the highest and best value to the  
19      state, the zone and the region in which a gaming facility is to be  
20      located;

21      4. allow for a gaming facility licensee fee to be determined by the  
22      applicant and weighed as a factor pursuant to paragraph b of subdivision  
23      one of section one thousand three hundred twenty of this article.

24      5. determine, from time to time, whether tribal-state gaming compacts  
25      are in or remain in good standing for the purposes of determining wheth-  
26      er a gaming facility may be located in areas designated by subdivision  
27      two of section one thousand three hundred eleven of this article;

1       6. determine, with the assistance of the commission, the sources and  
2       total amount of an applicant's proposed capitalization to develop,  
3       construct, maintain and operate a proposed gaming facility license under  
4       this article;

5       7. have the authority to conduct investigative hearings concerning the  
6       conduct of gaming and gaming operations in accordance with any proce-  
7       dures set forth in this article and any applicable implementing regu-  
8       lations;

9       8. issue detailed findings of facts and conclusions demonstrating the  
10      reasons supporting its decisions to select applicants for commission  
11      licensure;

12      9. report annually to the governor, the speaker of the assembly and  
13      the temporary president of the senate, its proceedings for the preceding  
14      calendar year and any suggestions and recommendations as it shall deem  
15      desirable;

16      10. promulgate any rules and regulations that it deems necessary to  
17      carry out its responsibilities;

18      11. have the power to administer oaths and examine witnesses, and may  
19      issue subpoenas to compel attendance of witnesses, and the production of  
20      all relevant and material reports, books, papers, documents, correspond-  
21      ence and other evidence;

22      12. be authorized to access the criminal history records of the divi-  
23      sion of criminal justice services, pursuant to subdivision eight-a of  
24      section eight hundred thirty-seven of the executive law, in connection  
25      with executing the responsibilities of the board relating to licensing  
26      including fingerprinting, criminal history record checks and background  
27      investigations, of entities applying for a gaming facility license. At  
28      the request of the board, the division of criminal justice services

1   shall submit a fingerprint card, along with the subject's processing  
2   fee, to the federal bureau of investigation for the purpose of conduct-  
3   ing a criminal history search and returning a report thereon. The board  
4   shall also be entitled to request and receive, pursuant to a written  
5   memorandum of understanding filed with the department of state, any  
6   information in the possession of the state attorney general relating to  
7   the investigation of organized crime, gaming offenses, other revenue  
8   crimes or tax evasion. Provided however, the attorney general may with-  
9   hold any information that (a) would identify a confidential source or  
10   disclose confidential information relating to a criminal investigation,  
11   (b) would interfere with law enforcement investigations or judicial  
12   proceedings, (c) reveal criminal investigative techniques or procedures,  
13   that, if disclosed, could endanger the life or safety of any person, or  
14   (d) constitutes records received from other state, local or federal  
15   agencies that the attorney general is prohibited by law, regulation or  
16   agreement from disclosing; and

17    13. be authorized to delegate the execution of any of its powers under  
18   this article for the purpose of administering and enforcing this article  
19   and the rules and regulations hereunder.

20    § 1307. Required regulations. 1. The commission is authorized:  
21    (a) to adopt, amend or repeal such regulations, consistent with the  
22   policy and objectives of this article, as amended and supplemented, as  
23   it may deem necessary to protect the public interest in carrying out the  
24   provisions of this article; and  
25    (b) to adopt, amend or repeal such regulations as may be necessary for  
26   the conduct of hearings before the commission and for the matters within  
27   all other responsibilities and duties of the commission imposed by this  
28   article.

1       2. The commission shall, without limitation, include the following  
2       specific provisions in its regulations in accordance with the provisions  
3       of this article:

4       (a) prescribing the methods and forms of application and registration  
5       which any applicant or registrant shall follow and complete;

6       (b) prescribing the methods, procedures and form for delivery of  
7       information concerning any person's family, habits, character, associ-  
8       ates, criminal record, business activities and financial affairs;

9       (c) prescribing such procedures for the fingerprinting of an appli-  
10      cant, employee of a licensee, or registrant, and methods of identifica-  
11      tion which may be necessary to accomplish effective enforcement of  
12      restrictions on access to the casino and other restricted casino areas  
13      of the gaming facility;

14      (d) prescribing the method of notice to an applicant, registrant or  
15      licensee concerning the release of any information or data provided to  
16      the commission by such applicant, registrant or licensee;

17      (e) prescribing the manner and procedure of all hearings conducted by  
18      the commission or any presiding officer, including rules of evidence  
19      applicable thereto and notices thereof;

20      (f) prescribing the manner and method of collection of payments of  
21      taxes, fees, interest and penalties;

22      (g) defining and limiting the areas of operation, the rules of author-  
23      ized games, odds, and devices permitted, and the method of operation of  
24      such games and devices;

25      (h) regulating the practice and procedures for negotiable transactions  
26      involving patrons, including limitations on the circumstances and  
27      amounts of such transactions, and the establishment of forms and proce-

1   dures for negotiable instrument transactions, redemptions, and consol-  
2   idations;

3   (i) prescribing grounds and procedures for the revocation or suspen-  
4   sion of operating certificates, licenses and registrations;

5   (j) governing the manufacture, distribution, sale, deployment, and  
6   servicing of gaming devices and equipment;

7   (k) prescribing for gaming operations the procedures, forms and meth-  
8   ods of management controls, including employee and supervisory tables of  
9   organization and responsibility, and minimum security and surveillance  
10   standards, including security personnel structure, alarm and other elec-  
11   trical or visual security measures; provided, however, that the commis-  
12   sion shall grant an applicant broad discretion concerning the organiza-  
13   tion and responsibilities of management personnel who are not directly  
14   involved in the supervision of gaming operations;

15   (l) prescribing the qualifications of, and the conditions pursuant to  
16   which, engineers, accountants, and others shall be permitted to practice  
17   before the commission or to submit materials on behalf of any applicant  
18   or licensee; provided, however, that no member of the legislature, nor  
19   any firm with which said member is associated, shall be permitted to  
20   appear or practice or act in any capacity whatsoever before the commis-  
21   sion regarding any matter whatsoever, nor shall any member of the family  
22   of the governor or of a member of the legislature be permitted to so  
23   practice or appear in any capacity whatsoever before the commission  
24   regarding any matter whatsoever;

25   (m) prescribing minimum procedures for the exercise of effective  
26   control over the internal fiscal affairs of a licensee, including  
27   provisions for the safeguarding of assets and revenues, the recording of  
28   cash and evidence of indebtedness, and the maintenance of reliable

1   records, accounts, and reports of transactions, operations and events,  
2   including reports to the commission;

3    (n) providing for a minimum uniform standard of accountancy methods,  
4   procedures and forms; a uniform code of accounts and accounting classi-  
5   fications; and such other standard operating procedures, as may be  
6   necessary to assure consistency, comparability, and effective disclosure  
7   of all financial information, including calculations of percentages of  
8   profit by games, tables, gaming devices and slot machines;

9    (o) requiring quarterly financial reports and the form thereof, and an  
10   annual audit prepared by a certified public accountant licensed to do  
11   business in this state, attesting to the financial condition of a licen-  
12   see and disclosing whether the accounts, records and control procedures  
13   examined are maintained by the licensee as required by this article and  
14   the regulations promulgated hereunder;

15    (p) governing the gaming-related advertising of licensees, their  
16   employees and agents, with the view toward assuring that such advertise-  
17   ments are not deceptive; and

18    (q) governing the distribution and consumption of alcoholic beverages  
19   on the premises of the licensee.

20    3. The commission shall, in its regulations, prescribe the manner and  
21   procedure of all hearings conducted by the commission, including rules  
22   of evidence applicable thereto and notices thereof.

23    § 1308. Reports and recommendations. The commission shall carry on a  
24   continuous study of the operation and administration of casino control  
25   laws which may be in effect in other jurisdictions, literature on this  
26   subject which may from time to time become available, and federal laws  
27   which may affect the operation of casino gaming in this state. It shall  
28   be responsible for ascertaining any defects in this article or in the

1   rules and regulations issued thereunder, formulating recommendations for  
2   changes in this article. The commission shall make available to the  
3   governor and the legislature within its annual report an accounting of  
4   all revenues, expenses and disbursements, and shall include therein such  
5   recommendations for changes in this article as the commission deems  
6   necessary or desirable.

7   § 1309. Severability and preemption. 1. If any clause, sentence,  
8   subparagraph, paragraph, subdivision, section, article or other portion  
9   of this article or the application thereof to any person or circum-  
10   stances shall be held to be invalid, such holding shall not affect,  
11   impair or invalidate the remainder of this article or the application of  
12   such portion held invalid to any other person or circumstances, but  
13   shall be confined in its operation to the clause, sentence, paragraph,  
14   subparagraph, subdivision, section, article or other portion thereof  
15   directly involved in such holding or to the person or circumstance ther-  
16   ein involved.

17   2. If any provision of this article is inconsistent with, in conflict  
18   with, or contrary to any other provision of law, such provision of this  
19   article shall prevail over such other provision and such other provision  
20   shall be deemed to be amended, superseded or repealed to the extent of  
21   such inconsistency or conflict. Notwithstanding the provisions of any  
22   other law to the contrary, no local government unit of this state may  
23   enact or enforce any ordinance or resolution conflicting with any  
24   provision of this article or with any policy of this state expressed or  
25   implied herein, whether by exclusion or inclusion. The commission shall  
26   have exclusive jurisdiction over all matters delegated to it or within  
27   the scope of its powers under the provisions of this article.

1                   TITLE 22                   FACILITY DETERMINATION AND LICENSING3   Section 1310. Development zones and regions.4    1311. License authorization; restrictions.5    1312. Requests for applications.6    1313. Form of application.7    1314. License applicant eligibility.8    1315. Required capital investment.9    1316. Minimum license thresholds.10   1317. Investigation of license applicants.11   1318. Disqualifying criteria.12   1319. Investigative hearings.13   1320. Siting evaluation.14   1321. Intentionally omitted.

15   § 1310. Development zones and regions. 1. There are hereby created  
16   two development zones to be known as the zone one and zone two. Zone one  
17   shall include the city of New York and the counties of Nassau, Putnam,  
18   Rockland, Suffolk and Westchester. Zone two shall include all the other  
19   counties of the state.

20   2. Each zone shall be divided into development regions. (a) The three  
21   development regions in zone one shall be comprised of the following  
22   counties:

23   (1) Region one shall consist of Putnam, Rockland and Westchester coun-  
24   ties;

25   (2) Region two shall consist of Bronx, Kings, New York, Queens and  
26   Richmond counties. No gaming facility shall be authorized in region  
27   two; and

28   (3) Region three shall consist of Nassau and Suffolk counties.

1       (b) The six development regions in zone two shall be comprised of the  
2 following counties:

3       (1) Region one shall consist of Columbia, Delaware, Dutchess, Greene,  
4 Orange, Sullivan and Ulster counties;

5       (2) Region two shall consist of Albany, Fulton, Montgomery, Rensse-  
6 laer, Saratoga, Schenectady, Schoharie and Washington counties.

7       (3) Region three shall consist of Clinton, Essex, Franklin, Hamilton,  
8 Jefferson, Saint Lawrence and Warren counties;

9       (4) Region four shall consist of Cayuga, Chenango, Cortland, Herkimer,  
10 Lewis, Madison, Oneida, Onondaga, Oswego and Otsego counties;

11       (5) Region five shall consist of Broome, Chemung (east of State Route  
12 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and  
13 Wayne (east of State Route 14) counties; and

14       (6) Region six shall consist of Allegany, Cattaraugus, Chautauqua,  
15 Chemung (west of State Route 14), Erie, Genesee, Livingston, Monroe,  
16 Niagara, Ontario, Orleans, Schuyler (west of State Route 14), Steuben,  
17 Wayne (west of State Route 14), Wyoming, and Yates counties.

18       § 1311. License authorization; restrictions. 1. The commission is  
19 authorized to award up to four gaming facility licenses, in regions one,  
20 two and five of zone two. The duration of such initial license shall be  
21 ten years. The term of renewal shall be determined by the commission. No  
22 more than two licenses may be awarded within a single region. The  
23 commission is not empowered to award any license in zone one. No gaming  
24 facilities are authorized under this article for the city of New York or  
25 any other portion of zone one.

26       As a condition of licensure, licensees are required to commence gaming  
27 operations no less than twenty-four months following license award. No  
28 additional licenses may be awarded during the twenty-four month period.

1   nor for an additional sixty months following the end of the twenty-four  
2   month period. Should the state legislatively authorize additional  
3   gaming facility licenses within these periods, licensees shall have the  
4   right to recover the license fee paid pursuant to section one thousand  
5   three hundred six of this article.

6   This right shall be incorporated into the license itself, vest upon  
7   the opening of a gaming facility in zone one or in the same region as  
8   the licensee and entitle the holder of such license to bring an action  
9   in the court of claims to recover the license fee paid pursuant to  
10   section one thousand three hundred six of this article in the event that  
11   any gaming facility license in excess of the number authorized by this  
12   section as of the effective date of this section is awarded within seven  
13   years from the date that the initial gaming facility license is awarded.

14   Additionally, the right to bring an action in the court of claims to  
15   recover the fee paid to the state on the twenty-fourth day of September,  
16   two thousand ten, by the operator of a video lottery gaming facility at  
17   Aqueduct shall vest with such operator upon the opening of any gaming  
18   facility licensed by the commission in zone one within seven years of  
19   the effective date of this section. The right to recover any such fee  
20   shall be proportionate to the length of the respective period that is  
21   still remaining upon the vesting of such right.

22   2. Notwithstanding the foregoing, no casino gaming facility shall be  
23   authorized:

24    (a) in the counties of Clinton, Essex, Franklin, Hamilton, Jefferson,  
25   Lewis, Saint Lawrence and Warren, if the tribal-state compact executed  
26   pursuant to the Indian Gaming Regulatory Act of 1988 (P.L. 100-497; 25  
27   U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168) between the Saint Regis  
28   Mohawk Tribe and the State of New York as executed pursuant to chapter

1 five hundred ninety of the laws of two thousand four is in good standing  
2 as determined from time to time by the commission;  
3       (b) within the following area: (1) to the east, State Route 14 from  
4 Sodus Point to the Pennsylvania border with New York; (2) to the north,  
5 the border between New York and Canada; (3) to the south, the Pennsylva-  
6 nia border with New York; and (4) to the west, the border between New  
7 York and Canada and the border between Pennsylvania and New York, if the  
8 tribal-state compact executed pursuant to the Indian Gaming Regulatory  
9 Act of 1988 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§  
10 1166-1168), between the Seneca Nation of Indians and the state of New  
11 York as executed pursuant to chapter three hundred eighty-three of the  
12 laws of two thousand one is in good standing as determined from time to  
13 time by the commission; and

14       (c) in the counties of Cayuga, Chenango, Cortland, Herkimer, Lewis,  
15 Madison, Oneida, Onondaga, Oswego and Otsego, if the nation-state  
16 compact executed pursuant to the Indian Gaming Regulatory Act of 1988  
17 (P.L. 100-497; 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168),  
18 between the Oneida Nation of New York and the state of New York as  
19 amended in accordance with the agreement between the Oneida Nation of  
20 New York and the state of New York dated the sixteenth day of May, two  
21 thousand thirteen, is in good standing as determined from time to time  
22 by the commission.

23       § 1312. Requests for applications. 1. The board shall issue within  
24 ninety days of a majority of members being appointed a request for  
25 applications for a gaming facility license in regions one, two and five  
26 in zone two; provided, however, that the board shall not issue any  
27 requests for applications for any region in zone one; and further  
28 provided that the board shall not issue any requests for applications

1   with respect to any gaming facility subsequently authorized until seven  
2   years following the commencement of gaming activities in zone two. All  
3   requests for applications shall include:

4       (a) the time and date for receipt of responses to the request for  
5   applications, the manner they are to be received and the address of the  
6   office to which the applications shall be delivered;  
7       (b) the form of the application and the method for submission;  
8       (c) a general description of the anticipated schedule for processing  
9   the application;  
10      (d) the contact information of board employees responsible for handl-  
11   ing applicant questions; and  
12      (e) any other information that the board determines.

13     2. Board activities shall be subject to section one hundred thirty-  
14   nine-j and section one hundred thirty-nine-k of the state finance law.

15     3. Requests for applications pursuant to subdivision one of this  
16   section shall be advertised in a newspaper of general circulation and on  
17   the official internet website of the commission and the board.

18     4. The board shall establish deadlines for the receipt of all applica-  
19   tions. Applications received after the deadline shall not be reviewed by  
20   the board.

21     § 1313. Form of application. 1. The commission and the board shall  
22   prescribe the initial form of the application for gaming licenses which  
23   shall require, but not be limited to:

24       (a) the name of the applicant;  
25       (b) the mailing address and, if a corporation, the name of the state  
26   under the laws of which it is incorporated, the location of its princi-  
27   pal place of business and the names and addresses of its directors and  
28   such stockholders as to be determined by the commission;

1       (c) the identity of each person having a direct or indirect interest  
2     in the business and the nature of such interest; provided, however, that  
3     if the disclosed entity is a trust, the application shall disclose the  
4     names and addresses of all beneficiaries; provided further, that if the  
5     disclosed entity is a partnership, the application shall disclose the  
6     names and addresses of all partners, both general and limited; and  
7     provided further, that if the disclosed entity is a limited liability  
8     company, the application shall disclose the names and addresses of all  
9     members;

10      (d) an independent audit report of all financial activities and inter-  
11     ests including, but not limited to, the disclosure of all contributions,  
12     donations, loans or any other financial transactions to or from a gaming  
13     entity or operator in the past five years;

14      (e) clear and convincing evidence of financial stability including,  
15     but not limited to, bank references, business and personal income and  
16     disbursement schedules, tax returns and other reports filed by govern-  
17     ment agencies and business and personal accounting check records and  
18     ledgers;

19      (f) information and documentation to demonstrate that the applicant  
20     has sufficient business ability and experience to create the likelihood  
21     of establishing and maintaining a successful gaming facility;

22      (g) a full description of the proposed internal controls and security  
23     systems for the proposed gaming facility and any related facilities;

24      (h) the designs for the proposed gaming facility, including the names  
25     and addresses of the architects, engineers and designers, and a timeline  
26     of construction that includes detailed stages of construction for the  
27     gaming facility and non-gaming structures, where applicable, and a  
28     proposed date to open for gaming;

1       (i) the number of construction hours estimated to complete the work;  
2       (j) a description of the ancillary entertainment services and amen-  
3       ties to be provided at the proposed gaming facility;  
4       (k) the number of employees to be employed at the proposed gaming  
5       facility, including detailed information on the pay rate and benefits  
6       for employees;

7       (l) completed studies and reports as required by the commission, which  
8       shall include, but not be limited to, an examination of the proposed  
9       gaming facility's:

10      (1) economic benefits to the region and the state;

11      (2) local and regional social, environmental, traffic and infrastruc-  
12      ture impacts;

13      (3) impact on the local and regional economy, including the impact on  
14      cultural institutions and on small businesses in the host municipality  
15      and nearby municipalities;

16      (4) cost to the host municipality, nearby municipalities and the state  
17      for the proposed gaming facility to be located at the proposed location;

18      and

19      (5) the estimated state tax revenue to be generated by the gaming  
20      facility;

21      (m) the names of proposed vendors of gaming equipment;

22      (n) the location of the proposed gaming facility, which shall include  
23      the address, maps, book and page numbers from the appropriate registry  
24      of deeds, assessed value of the land at the time of application and  
25      ownership interests over the past twenty years, including all interests,  
26      options, agreements in property and demographic, geographic and environ-  
27      mental information and any other information requested by the commis-  
28      sion;

1       (o) the type and number of games to be conducted at the proposed  
2       gaming facility and the specific location of the games in the proposed  
3       gaming facility;

4       (p) the number of hotels and rooms, restaurants and other amenities  
5       located at the proposed gaming facility and how they measure in quality  
6       to other area hotels and amenities;

7       (q) whether the applicant's proposed gaming facility is part of a  
8       regional or local economic plan; and

9       (r) whether the applicant purchased or intends to purchase publicly-  
10      owned land for the proposed gaming facility.

11      2. Applications for licenses shall be public records; provided howev-  
12      er, that trade secrets, competitively-sensitive or other proprietary  
13      information provided in the course of an application for a gaming  
14      license under this article, the disclosure of which would place the  
15      applicant at a competitive disadvantage, may be withheld from disclosure  
16      pursuant to paragraph (d) of subdivision two of section eighty-seven of  
17      the public officers law.

18      § 1314. License applicant eligibility. 1. Gaming facility licenses  
19      shall only be issued to applicants who are qualified under the criteria  
20      set forth in this article, as determined by the commission.

21      2. As a condition of filing, each potential license applicant must  
22      demonstrate to the board's satisfaction that local support has been  
23      demonstrated.

24      3. Within any development region, if the commission is not convinced  
25      that there is an applicant that has met the eligibility criteria or the  
26      board finds that no applicant has provided substantial evidence that its  
27      proposal will provide value to the region in which the gaming facility

1 is proposed to be located, no gaming facility license shall be awarded  
2 in that region.

3 § 1315. Required capital investment. 1. The board shall establish the  
4 minimum capital investment for a gaming facility by zone and region.  
5 Such investment shall include, but not be limited to, a casino area, at  
6 least one hotel and other amenities; and provided further, that the  
7 board shall determine whether it will include the purchase or lease  
8 price of the land where the gaming facility will be located or any  
9 infrastructure designed to support the site including, but not limited  
10 to, drainage, utility support, roadways, interchanges, fill and soil or  
11 groundwater or surface water contamination issues. The board may  
12 consider private capital investment made during the three years previous  
13 to the effective date of this section, but may, in its discretion,  
14 discount a percentage of the investment made. Upon award of a gaming  
15 license by the commission, the applicant shall be required to deposit  
16 ten percent of the total investment proposed in the application into an  
17 interest-bearing account. Monies received from the applicant shall be  
18 held in escrow until the final stage of construction, as detailed in the  
19 timeline of construction submitted with the licensee's application and  
20 approved by the commission, at which time the deposit shall be returned  
21 to the applicant to be applied for the final stage. Should the appli-  
22 cant be unable to complete the gaming facility, the deposit shall be  
23 forfeited to the state. In place of a cash deposit, the commission may  
24 allow for an applicant to secure a deposit bond insuring that ten  
25 percent of the proposed capital investment shall be forfeited to the  
26 state if the applicant is unable to complete the gaming facility.

27 2. Each applicant shall submit its proposed capital investment with  
28 its application to the board which shall include stages of construction

1 of the gaming facility and the deadline by which the stages and overall  
2 construction and any infrastructure improvements will be completed. In  
3 awarding a license, the commission shall determine at what stage of  
4 construction a licensee shall be approved to open for gaming; provided,  
5 however, that a licensee shall not be approved to open for gaming until  
6 the commission has determined that at least the gaming area and other  
7 ancillary entertainment services and non-gaming amenities, as required  
8 by the board, have been built and are of a superior quality as set forth  
9 in the conditions of licensure. The commission shall not approve a  
10 gaming facility to open before the completion of the permanent casino  
11 area.

12 3. A licensee who fails to begin gaming operations within twenty-four  
13 months following license award shall be subject to suspension or revoca-  
14 tion of the gaming license by the commission and may, after being found  
15 by the commission after notice and opportunity for a hearing to have  
16 acted in bad faith in its application, be assessed a fine of up to fifty  
17 million dollars.

18 4. The board shall determine the minimum licensing fee for each  
19 region, which shall not be less than fifty million dollars, to be paid  
20 by a licensee within thirty days after the award of the license which  
21 shall be deposited into the commercial gaming revenue fund. The license  
22 shall set forth the conditions to be satisfied by the licensee before  
23 the gaming facility shall be opened to the public. The commission shall  
24 set any renewal fee for such license based on the cost of fees associ-  
25 ated with the evaluation of a licensee under this article which shall be  
26 deposited into the commercial gaming fund. Such renewal fee shall be  
27 exclusive of any subsequent licensing fees under this section.

1       5. The commission shall determine the sources and total amount of an  
2       applicant's proposed capitalization to develop, construct, maintain and  
3       operate a proposed gaming facility under this article. Upon award of a  
4       gaming license, the commission shall continue to assess the capitaliza-  
5       tion of a licensee for the duration of construction of the proposed  
6       gaming facility and the term of the license.

7       § 1316. Minimum license thresholds. No applicant shall be eligible to  
8       receive a gaming license unless the applicant meets the following crite-  
9       ria and clearly states as part of an application that the applicant  
10      shall:

11      1. in accordance with the design plans submitted with the licensee's  
12      application to the board, invest not less than the required capital  
13      under this article into the gaming facility;

14      2. own or acquire, within sixty days after a license has been awarded,  
15      the land where the gaming facility is proposed to be constructed;  
16      provided, however, that ownership of the land shall include a tenancy  
17      for a term of years under a lease that extends not less than sixty years  
18      beyond the term of the gaming license issued under this article;

19      3. meet the licensee deposit requirement;

20      4. demonstrate that it is able to pay and shall commit to paying the  
21      gaming licensing fee;

22      5. demonstrate to the commission how the applicant proposes to address  
23      problem gambling concerns, workforce development and community develop-  
24      ment and host and nearby municipality impact and mitigation issues;

25      6. identify the infrastructure costs of the host municipality incurred  
26      in direct relation to the construction and operation of a gaming facili-  
27      ty and commit to a community mitigation plan for the host municipality;

1       7. identify the service costs of the host municipality incurred for  
2       emergency services in direct relation to the operation of a gaming  
3       facility and commit to a community mitigation plan for the host municipi-  
4       pality;

5       8. pay to the commission a nonrefundable application fee of one  
6       million dollars to defray the costs associated with the processing of  
7       the application and investigation of the applicant; provided, however,  
8       that if the costs of the investigation exceed the initial application  
9       fee, the applicant shall pay the additional amount to the commission  
10      within thirty days after notification of insufficient fees or the appli-  
11      cation shall be rejected;

12      9. comply with state building and fire prevention codes;

13      10. provide a community impact fee to the host municipality;

14      11. formulate for board approval and abide by a marketing program by  
15      which the applicant shall identify specific goals, expressed as an over-  
16      all program goal applicable to the total dollar amount of contracts, for  
17      utilization of:

18      (1) minority business enterprises, women business enterprises and  
19      veteran business enterprises to participate as contractors in the design  
20      of the gaming facility;

21      (2) minority business enterprises, women business enterprises and  
22      veteran business enterprises to participate as contractors in the  
23      construction of the gaming facility; and

24      (3) minority business enterprises, women business enterprises and  
25      veteran business enterprises to participate as vendors in the provision  
26      of goods and services procured by the gaming facility and any businesses  
27      operated as part of the gaming facility; and

1       12. formulate for board approval and abide by an affirmative action  
2       program of equal opportunity whereby the applicant establishes specific  
3       goals for the utilization of minorities, women and veterans on  
4       construction jobs.

5       § 1317. Investigation of license applicants. 1. Upon receipt of an  
6       application for a gaming facility license, the commission shall cause to  
7       be commenced an investigation into the suitability of the applicant. In  
8       evaluating the suitability of the applicant, the commission shall  
9       consider the overall reputation of the applicant including, without  
10      limitation:

11      (a) the integrity, honesty, good character and reputation of the  
12      applicant;

13      (b) the financial stability, integrity and background of the appli-  
14      cant;

15      (c) the business practices and the business ability of the applicant  
16      to establish and maintain a successful gaming facility;

17      (d) whether the applicant has a history of compliance with gaming  
18      licensing requirements in other jurisdictions;

19      (e) whether the applicant, at the time of application, is a defendant  
20      in litigation involving its business practices;

21      (f) the suitability of all parties in interest to the gaming facility  
22      license, including affiliates and close associates and the financial  
23      resources of the applicant; and

24      (g) whether the applicant is disqualified from receiving a license  
25      under this article; provided, however, that in considering the rehabili-  
26      tation of an applicant for a gaming facility license, the commission  
27      shall not automatically disqualify an applicant if the applicant affir-  
28      matively demonstrates, by clear and convincing evidence, that the appli-

1 can't have financial responsibility, character, reputation, integrity and  
2 general fitness as such to warrant belief by the commission that the  
3 applicant will act honestly, fairly, soundly and efficiently as a gaming  
4 licensee.

5 2. If the investigation reveals that an applicant has failed to:

6 (a) establish the applicant's integrity or the integrity of any affil-  
7 iate, close associate, financial source or any person required to be  
8 qualified by the commission;  
9 (b) demonstrate responsible business practices in any jurisdiction; or  
10 (c) overcome any other reason, as determined by the commission, as to  
11 why it would be injurious to the interests of the state in awarding the  
12 applicant a gaming facility license, the commission shall deny the  
13 application, subject to notice and hearing.

14 3. If the investigation reveals that an applicant is suitable to  
15 receive a gaming facility license, the entity shall recommend that the  
16 commission commence a review of the applicant's entire application.

17 § 1318. Disqualifying criteria. 1. The commission shall deny a  
18 license to any applicant who is disqualified on the basis of any of the  
19 following criteria, subject to notice and hearing:

20 (a) failure of the applicant to prove by clear and convincing evidence  
21 that the applicant is qualified in accordance with the provisions of  
22 this article;

23 (b) failure of the applicant to provide information, documentation and  
24 assurances required by this article or requested by the commission, or  
25 failure of the applicant to reveal any fact material to qualification,  
26 or the supplying of information which is untrue or misleading as to a  
27 material fact pertaining to the qualification criteria;

1       (c) the conviction of the applicant, or of any person required to be  
2 qualified under this article as a condition of a license, of any offense  
3 in any jurisdiction which is or would be a felony or other crime involv-  
4 ing public integrity, embezzlement, theft, fraud or perjury;

5       (d) committed prior acts which have not been prosecuted or in which  
6 the applicant, or of any person required to be qualified under this  
7 article as a condition of a license, was not convicted but form a  
8 pattern of misconduct that makes the applicant unsuitable for a license  
9 under this article; or

10      (e) if the applicant, or of any person required to be qualified under  
11 this article as a condition of a license, has affiliates or close asso-  
12 ciates that would not qualify for a license or whose relationship with  
13 the applicant may pose an injurious threat to the interests of the state  
14 in awarding a gaming facility license to the applicant;

15      2. Any other offense under present state or federal law which indi-  
16 cates that licensure of the applicant would be inimical to the policy of  
17 this article; provided, however, that the automatic disqualification  
18 provisions of this section shall not apply with regard to any conviction  
19 which did not occur within the ten year period immediately preceding  
20 application for licensure and which the applicant demonstrates by clear  
21 and convincing evidence does not justify automatic disqualification  
22 pursuant to this subdivision and any conviction which has been the  
23 subject of a judicial order of expungement or sealing;

24      3. Current prosecution or pending charges in any jurisdiction of the  
25 applicant or of any person who is required to be qualified under this  
26 article as a condition of a license, for any of the offenses enumerated  
27 in paragraph (c) of subdivision one of this section; provided, however,  
28 that at the request of the applicant or the person charged, the commis-

1 sion may defer decision upon such application during the pendency of  
2 such charge;

3 4. The pursuit by the applicant or any person who is required to be  
4 qualified under this article as a condition of a license of economic  
5 gain in an occupational manner or context which is in violation of the  
6 criminal or civil public policies of this state, if such pursuit creates  
7 a reasonable belief that the participation of such person in gaming  
8 facility operations would be inimical to the policies of this article.

9 For purposes of this section, occupational manner or context shall be  
10 defined as the systematic planning, administration, management, or  
11 execution of an activity for financial gain;

12 5. The identification of the applicant or any person who is required  
13 to be qualified under this article as a condition of a license as a  
14 career offender or a member of a career offender cartel or an associate  
15 of a career offender or career offender cartel in such a manner which  
16 creates a reasonable belief that the association is of such a nature as  
17 to be inimical to the policy of this article. For purposes of this  
18 section, career offender shall be defined as any person whose behavior  
19 is pursued in an occupational manner or context for the purpose of  
20 economic gain, utilizing such methods as are deemed criminal violations  
21 of the public policy of this state. A career offender cartel shall be  
22 defined as any group of persons who operate together as career offend-  
23 ders;

24 6. The commission by the applicant or any person who is required to be  
25 qualified under this article as a condition of a license of any act or  
26 acts which would constitute any offense under paragraph (c) of subdivi-  
27 sion one of this section, even if such conduct has not been or may not  
28 be prosecuted under the criminal laws of this state or any other juris-

1 diction or has been prosecuted under the criminal laws of this state or  
2 any other jurisdiction and such prosecution has been terminated in a  
3 manner other than with a conviction;

4 7. Flagrant defiance by the applicant or any person who is required to  
5 be qualified under this article of any legislative investigatory body or  
6 other official investigatory body of any state or of the United States  
7 when such body is engaged in the investigation of crimes relating to  
8 gaming, official corruption, or organized crime activity; and

9 8. Failure by the applicant or any person required to be qualified  
10 under this article as a condition of a license to make required payments  
11 in accordance with a child support order, repay an overpayment for  
12 public assistance benefits, or repay any other debt owed to the state  
13 unless such applicant provides proof to the director's satisfaction of  
14 payment of or arrangement to pay any such debts prior to licensure.

15 § 1319. Investigative hearings. The commission and the board shall  
16 have the independent authority to conduct investigative hearings  
17 concerning the conduct of gaming and applicants for gaming facility  
18 licenses in accordance with any procedures set forth in this article and  
19 any applicable implementing regulations.

20 § 1320. Siting evaluation. In determining whether an applicant shall  
21 be eligible for a gaming facility license, the board shall evaluate and  
22 issue a finding of how each applicant proposes to advance the following  
23 objectives.

24 1. The decision by the board to select a gaming facility license  
25 applicant shall be weighted by sixty-five percent based on economic  
26 activity and business development factors including:  
27 (a) realizing maximum capital investment exclusive of land acquisition  
28 and infrastructure improvements;

1       (b) maximizing revenues received by the state and localities;

2       (c) providing the highest number of quality jobs in the gaming facili-

3       ty;

4       (d) building a gaming facility of the highest caliber with a variety

5       of quality amenities to be included as part of the gaming facility;

6       (e) offering the highest and best value to patrons to create a secure

7       and robust gaming market in the region and the state;

8       (f) providing a market analysis detailing the benefits of the site

9       location of the gaming facility and the estimated recapture rate of

10      gaming-related spending by residents travelling to an out-of-state

11      gaming facility;

12      (g) offering the fastest time to completion of the full gaming facili-

13      ty;

14      (h) demonstrating the ability to fully finance the gaming facility;

15      and

16      (i) demonstrating experience in the development and operation of a

17      quality gaming facility.

18      2. The decision by the board to select a gaming facility license

19      applicant shall be weighted by twenty percent based on local impact and

20      siting factors including:

21      (a) mitigating potential impacts on host and nearby municipalities

22      which might result from the development or operation of the gaming

23      facility;

24      (b) gaining public support in the host and nearby municipalities which

25      may be demonstrated through the passage of local laws or public comment

26      received by the board or gaming applicant; and

1       (c) operating in partnership with and promoting local hotels, restaurants, retail facilities, and live entertainment establishments so that patrons experience the full diversified regional tourism industry.

4       3. The decision by the board to select a gaming facility license applicant shall be weighted by fifteen percent based on workforce and societal enhancement factors including:

7       (a) implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming facility will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming facility;

12     (b) taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling;

15     (c) utilizing sustainable development principles including, but not limited to:

17       (1) having new and renovation construction certified under the appropriate certification category in the Leadership in Energy and Environmental Design Green Building Rating System created by the United States Green Building Council;

21       (2) efforts to mitigate vehicle trips;

22       (3) efforts to conserve water and manage storm water;

23       (4) demonstrating that electrical and HVAC equipment and appliances will be Energy Star labeled where available;

25       (5) procuring or generating on-site ten percent of its annual electricity consumption from renewable sources; and

1       (6) developing an ongoing plan to submeter and monitor all major  
2 sources of energy consumption and undertake regular efforts to maintain  
3 and improve energy efficiency of buildings in their systems;

4       (d) establishing, funding and maintaining human resource hiring and  
5 training practices that promote the development of a skilled and diverse  
6 workforce and access to promotion opportunities through a workforce  
7 training program that:

8       (1) establishes transparent career paths with measurable criteria  
9 within the gaming facility that lead to increased responsibility and  
10 higher pay grades that are designed to allow employees to pursue career  
11 advancement and promotion;

12       (2) provides employee access to additional resources, such as tuition  
13 reimbursement or stipend policies, to enable employees to acquire the  
14 education or job training needed to advance career paths based on  
15 increased responsibility and pay grades; and

16       (3) establishes an on-site child day care program;

17       (e) purchasing, whenever possible, domestically manufactured slot  
18 machines for installation in the gaming facility;

19       (f) implementing a marketing program that identifies specific goals,  
20 expressed as an overall program goal applicable to the total dollar  
21 amount of contracts, for the utilization of:

22       (1) minority business enterprises, women business enterprises and  
23 veteran business enterprises to participate as contractors in the design  
24 of the gaming facility;

25       (2) minority business enterprises, women business enterprises and  
26 veteran business enterprises to participate as contractors in the  
27 construction of the gaming facility; and

1       (3) minority business enterprises, women business enterprises and  
2       veteran business enterprises to participate as vendors in the provision  
3       of goods and services procured by the gaming facility and any businesses  
4       operated as part of the gaming facility;

5       (g) implementing a workforce development plan that:

6        (1) incorporates an affirmative action program of equal opportunity by  
7       which the applicant guarantees to provide equal employment opportunities  
8       to all employees qualified for licensure in all employment categories,  
9       including persons with disabilities;

10      (2) utilizes the existing labor force in the state;

11      (3) estimates the number of construction jobs a gaming facility will  
12     generate and provides for equal employment opportunities and which  
13     includes specific goals for the utilization of minorities, women and  
14     veterans on those construction jobs;

15      (4) identifies workforce training programs offered by the gaming  
16     facility; and

17      (5) identifies the methods for accessing employment at the gaming  
18     facility; and

19      (h) demonstrating that the applicant has an agreement with organized  
20     labor, including hospitality services, and has the support of organized  
21     labor for its application, which specifies:

22      (1) the number of employees to be employed at the gaming facility,  
23     including detailed information on the pay rate and benefits for employ-  
24     ees and contractors in the gaming facility and all infrastructure  
25     improvements related to the project; and

26      (2) detailed plans for assuring labor harmony during all phases of the  
27     construction, reconstruction, renovation, development and operation of  
28     the gaming facility.

1      § 1321. Intentionally omitted.

2                    TITLE 3

3                    OCCUPATIONAL LICENSING

4    Section 1322. General provisions.

5        1323. Key employee licenses.

6        1324. Gaming employee registration.

7        1325. Approval and denial of employee licenses and registrations.

9    § 1322. General provisions. 1. It shall be the affirmative responsibility of each applicant or licensee to establish by clear and convincing evidence its individual qualifications, and for a gaming facility license the qualifications of each person who is required to be qualified under this article.

14    2. Any applicant, licensee, registrant, or any other person who must be qualified pursuant to this article shall provide all required information and satisfy all requests for information pertaining to qualification and in the form specified by regulation. All applicants, registrants, and licensees shall waive liability as to the state, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

23    3. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures while at a gaming facility and the supplying of handwriting exemplars as authorized by this article and regulations promulgated hereunder.

27    4. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this article shall have the continuing

1 duty to provide any assistance or information required by the commission,  
2 and to cooperate in any inquiry, investigation or hearing  
3 conducted by the commission. If, upon issuance of a formal request to  
4 answer or produce information, evidence or testimony, any applicant,  
5 licensee, registrant, or any other person who shall be qualified pursuant  
6 to this article refuses to comply, the application, license, registration or qualification of such person may be denied or revoked.

7  
8 5. Each applicant or person who must be qualified under this article  
9 shall be photographed and fingerprinted for identification and investi-  
10 gation purposes in accordance with procedures set forth by regulation.

11  
12 6. All licensees, all registrants, and all other persons required to  
13 be qualified under this article shall have a duty to inform the commission of  
14 any action which they believe would constitute a violation of  
15 this article. No person who so informs the commission shall be discrimi-  
16 nated against by an applicant, licensee or registrant because of the  
17 supplying of such information.

18  
19 § 1323. Key employee licenses. 1. No licensee or a holding or inter-  
20 mediary company of a licensee may employ any person as a casino key  
employee unless the person is the holder of a valid casino key employee  
license issued by the commission.

21  
22 2. Each applicant for a casino key employee license must, prior to the  
23 issuance of any casino key employee license, produce information,  
documentation and assurances concerning the following qualification  
criteria:

24  
25 (a) Each applicant for a casino key employee license shall produce  
26 such information, documentation and assurances as may be required to  
27 establish by clear and convincing evidence the financial stability,  
28 integrity and responsibility of the applicant, including but not limited

1 to bank references, business and personal income and disbursements sche-  
2 dules, tax returns and other reports filed with governmental agencies,  
3 and business and personal accounting and check records and ledgers. In  
4 addition, each applicant shall, in writing, authorize the examination of  
5 all bank accounts and records as may be deemed necessary by the commis-  
6 sion.

7 (b) Each applicant for a casino key employee license shall produce  
8 such information, documentation and assurances as may be required to  
9 establish by clear and convincing evidence the applicant's good charac-  
10 ter, honesty and integrity. Such information shall include, without  
11 limitation, data pertaining to family, habits, character, reputation,  
12 criminal and arrest record, business activities, financial affairs, and  
13 business, professional and personal associates, covering at least the  
14 ten year period immediately preceding the filing of the application.

15 Each applicant shall notify the commission of any civil judgments  
16 obtained against such applicant pertaining to antitrust or security  
17 regulation laws of the federal government, of this state or of any other  
18 state, jurisdiction, province or country. In addition, each applicant  
19 shall, upon request of the commission, produce letters of reference from  
20 law enforcement agencies having jurisdiction in the applicant's place of  
21 residence and principal place of business, which letters of reference  
22 shall indicate that such law enforcement agencies do not have any perti-  
23 nent information concerning the applicant, or if such law enforcement  
24 agency does have information pertaining to the applicant, shall specify  
25 what that information is. If the applicant has been associated with  
26 gaming operations in any capacity, position or employment in a jurisdic-  
27 tion which permits such activity, the applicant shall, upon request of  
28 the commission, produce letters of reference from the gaming enforcement

1 or control agency, which shall specify the experience of such agency  
2 with the applicant, his or her associates and his or her participation  
3 in the gaming operations of that jurisdiction; provided, however, that  
4 if no such letters are received from the appropriate law enforcement  
5 agencies within sixty days of the applicant's request therefor, the  
6 applicant may submit a statement under oath that he or she is or was  
7 during the period such activities were conducted in good standing with  
8 such gaming enforcement or control agency.

9       (c) Each applicant employed by a gaming facility licensee shall be a  
10 resident of the state prior to the issuance of a casino key employee  
11 license; provided, however, that upon petition by the holder of a  
12 license, the commission may waive this residency requirement for any  
13 applicant whose particular position will require him to be employed  
14 outside the state; and provided further that no applicant employed by a  
15 holding or intermediary company of a licensee shall be required to  
16 establish residency in this state.

17       (d) For the purposes of this section, each applicant shall submit to  
18 the commission the applicant's name, address, fingerprints and written  
19 consent for a criminal history record background check to be performed.  
20 The commission is hereby authorized to exchange fingerprint data with  
21 and receive criminal history record information from the state division  
22 of criminal justice services and the federal bureau of investigation  
23 consistent with applicable state and federal laws, rules and regu-  
24 lations. The applicant shall bear the cost for the criminal history  
25 record check, including all costs of administering and processing the  
26 check. The state division of criminal justice services shall promptly  
27 notify the commission in the event a current or prospective licensee,  
28 who was the subject of a criminal history record check pursuant to this

1 section, is arrested for a crime or offense in this state after the date  
2 the check was performed.

3 3. The commission shall deny a casino key employee license to any  
4 applicant who is disqualified on the basis of the criteria contained in  
5 section one thousand three hundred eighteen of this title, subject to  
6 notice and hearing.

7 4. Upon petition by the holder of a license, the commission may issue  
8 a temporary license to an applicant for a casino key employee license,  
9 provided that:

10 (a) The applicant for the casino key employee license has filed a  
11 completed application as required by the commission;  
12 (b) The petition for a temporary casino key employee license certi-  
13 fies, and the commission finds, that an existing casino key employee  
14 position of the petitioner is vacant or will become vacant within sixty  
15 days of the date of the petition and that the issuance of a temporary  
16 key employee license is necessary to fill the said vacancy on an emer-  
17 gency basis to continue the efficient operation of the casino, and that  
18 such circumstances are extraordinary and not designed to circumvent the  
19 normal licensing procedures of this article;

20 5. Unless otherwise terminated pursuant to this article, any temporary  
21 casino key employee license issued pursuant to this section shall expire  
22 nine months from the date of its issuance.

23 § 1324. Gaming employee registration. 1. No person may commence  
24 employment as a gaming employee unless such person has a valid registra-  
25 tion on file with the commission, which registration shall be prepared  
26 and filed in accordance with the regulations promulgated hereunder.

27 2. A gaming employee registrant shall produce such information as the  
28 commission by regulation may require. Subsequent to the registration of

1 a gaming employee, the executive director may revoke, suspend, limit, or  
2 otherwise restrict the registration upon a finding that the registrant  
3 is disqualified on the basis of the criteria contained in section one  
4 thousand three hundred eighteen of this title. If a gaming employee  
5 registrant has not been employed in any position within a gaming facili-  
6 ty for a period of three years, the registration of that gaming employee  
7 shall lapse.

8 3. Notwithstanding the provisions of paragraph (b) of this subdivi-  
9 sion, no gaming employee registration shall be revoked on the basis of a  
10 conviction of any of the offenses enumerated in this article as disqual-  
11 ification criteria or the commission of any act or acts which would  
12 constitute any offense under section one thousand three hundred eighteen  
13 of this title, provided that the registrant has affirmatively demon-  
14 strated the registrant's rehabilitation. In determining whether the  
15 registrant has affirmatively demonstrated the registrant's rehabili-  
16 tation the director shall consider the following factors:

17 (a) The nature and duties of the registrant's position;  
18 (b) The nature and seriousness of the offense or conduct;  
19 (c) The circumstances under which the offense or conduct occurred;  
20 (d) The date of the offense or conduct;  
21 (e) The age of the registrant when the offense or conduct was commit-  
22 ted;  
23 (f) Whether the offense or conduct was an isolated or repeated inci-  
24 dent;  
25 (g) Any social conditions which may have contributed to the offense or  
26 conduct; and  
27 (h) Any evidence of rehabilitation, including good conduct in prison  
28 or in the community, counseling or psychiatric treatment received,

1 acquisition of additional academic or vocational schooling, successful  
2 participation in correctional work-release programs, or the recommenda-  
3 tion of persons who have or have had the registrant under their super-  
4 vision.

5 4. For the purposes of this section, each registrant shall submit to  
6 the commission the registrant's name, address, fingerprints and written  
7 consent for a criminal history record check to be performed. The commis-  
8 sion is hereby authorized to exchange fingerprint data with and receive  
9 criminal history record information from the state division of criminal  
10 justice services and the federal bureau of investigation consistent with  
11 applicable state and federal laws, rules and regulations. The registrant  
12 shall bear the cost for the criminal history record check, including all  
13 costs of administering and processing the check. The state division of  
14 criminal justice services shall promptly notify the commission in the  
15 event a current or prospective licensee, who was the subject of a crimi-  
16 nal history record background check pursuant to this section, is  
17 arrested for a crime or offense in this state after the date the check  
18 was performed.

19 § 1325. Approval and denial of employee licenses and registrations.  
20 1. Upon the filing of an application for a casino key employee license  
21 required by this article and after submission of such supplemental  
22 information as the commission may require, the commission shall conduct  
23 or cause to be conducted such investigation into the qualification of  
24 the applicant, and the commission shall conduct such hearings concerning  
25 the qualification of the applicant, in accordance with its regulations,  
26 as may be necessary to determine qualification for such license.

1       2. After such investigation, the commission may either deny the appli-  
2       cation or grant a license to an applicant whom it determines to be qual-  
3       ified to hold such license.

4       3. The commission shall have the authority to deny any application  
5       pursuant to the provisions of this article following notice and opportu-  
6       nity for hearing. When an application for a casino key employee license  
7       is denied, the commission shall prepare and file its order denying such  
8       application with the general reasons therefor, and if requested by the  
9       applicant, shall further prepare and file a statement of the reasons for  
10      the denial, including the specific findings of fact.

11      4. When the commission grants an application, the commission may limit  
12      or place such restrictions thereupon as it may deem necessary in the  
13      public interest.

14      5. Gaming employee registration shall be effective upon issuance, and  
15      shall remain in effect unless revoked, suspended, limited, or otherwise  
16      restricted by the commission. Notwithstanding the foregoing, if a  
17      gaming employee registrant has not been employed in any position within  
18      a gaming facility for a period of three years, the registration of that  
19      gaming employee shall lapse.

20      6. After an application for a casino key employee license is submit-  
21      ted, final action of the commission shall be taken within ninety days  
22      after completion of all hearings and investigations and the receipt of  
23      all information required by the commission.

24      7. Not later than five years after obtaining a casino key employee  
25      license, and every five years thereafter, the licensee shall submit such  
26      information and documentation as the commission may by regulation  
27      require, to demonstrate to the satisfaction of the commission that it  
28      continues to meet the requirements of this article. Upon receipt of such

1    information, the commission may take such action on the license, includ-  
2    ing suspension or revocation, as it deems appropriate.

3       8. Registrations for gaming employees issued shall remain valid unless  
4       suspended or revoked or unless such registration expires or is voided  
5       pursuant to law.

6       9. The commission shall establish by regulation appropriate fees to be  
7       paid upon the filing of the required applications. Such fees shall be  
8       deposited into the commercial gaming revenue fund.

**TITLE 4**

## ENTERPRISE AND VENDOR LICENSING AND REGISTRATION

#### 11 Section 1326. Licensing of vendor enterprises.

**1327. Approval and denial of vendor registration.**

## 13 1328. Junket operator licensing.

**14**                   **1329. Lobbyist registration.**

15                  1330. Registration of labor organizations.

§ 1326. Licensing of vendor enterprises. 1. Any business to be conducted with a gaming facility applicant or licensee by a vendor offering goods or services which directly relate to gaming activity, including gaming equipment manufacturers, suppliers, repairers, and independent testing laboratories, shall be licensed as a casino vendor enterprise in accordance with the provisions of this article prior to conducting any business whatsoever with a gaming facility applicant or licensee, its employees or agents; provided, however, that upon a showing of good cause by a gaming facility applicant or licensee, the executive director may permit an applicant for a casino vendor enterprise license to conduct business transactions with such gaming facility applicant or licensee prior to the licensure of that casino vendor

1 enterprise applicant under this subdivision for such periods as the  
2 commission may establish by regulation.

3 2. In addition to the requirements of subdivision one of this section,  
4 any casino vendor enterprise intending to manufacture, sell, distribute,  
5 test or repair slot machines within the state shall be licensed in  
6 accordance with the provisions of this article prior to engaging in any  
7 such activities; provided, however, that upon a showing of good cause by  
8 a gaming facility applicant or licensee, the executive director may  
9 permit an applicant for a casino vendor enterprise license to conduct  
10 business transactions with the gaming facility applicant or licensee  
11 prior to the licensure of that casino vendor enterprise applicant under  
12 this subdivision for such periods as the commission may establish by  
13 regulation; and provided further, however, that upon a showing of good  
14 cause by an applicant required to be licensed as a casino vendor enter-  
15 prise pursuant to this subdivision, the executive director may permit  
16 the casino vendor enterprise applicant to initiate the manufacture of  
17 slot machines or engage in the sale, distribution, testing or repair of  
18 slot machines with any person other than a gaming facility applicant or  
19 licensee, its employees or agents, prior to the licensure of that casino  
20 vendor enterprise applicant under this subdivision.

21 3. Vendors providing goods and services to gaming facility licensees  
22 or applicants ancillary to gaming shall be required to be licensed as an  
23 ancillary casino vendor enterprise and shall comply with the standards  
24 for casino vendor license applicants.

25 4. Each casino vendor enterprise required to be licensed pursuant to  
26 subdivision one of this section, as well as its owners; management and  
27 supervisory personnel; and employees if such employees have responsibil-  
28 ity for services to a gaming facility applicant or licensee, must quali-

1 fy under the standards, except residency, established for qualification  
2 of a casino key employee under this article.

3 5. Any vendor that offers goods or services to a gaming facility  
4 applicant or licensee that is not included in subdivision one or two of  
5 this section including, but not limited to site contractors and subcon-  
6 tractors, shopkeepers located within the facility, gaming schools that  
7 possess slot machines for the purpose of instruction, and any non-super-  
8 visory employee of a junket enterprise licensed under subdivision three  
9 of this section, shall be required to register with the commission in  
10 accordance with the regulations promulgated under this article.

11 Notwithstanding the provisions aforementioned, the executive director  
12 may, consistent with the public interest and the policies of this arti-  
13 cle, direct that individual vendors registered pursuant to this subdivi-  
14 sion be required to apply for either a casino vendor enterprise license  
15 pursuant to subdivision one of this section, or an ancillary vendor  
16 industry enterprise license pursuant to subdivision three of this  
17 section, as directed by the commission. The executive director may also  
18 order that any enterprise licensed as or required to be licensed as an  
19 ancillary casino vendor enterprise pursuant to subdivision three of this  
20 section be required to apply for a casino vendor enterprise license  
21 pursuant to subdivision one of this section. The executive director may  
22 also, in his or her discretion, order that an independent software  
23 contractor not otherwise required to be registered be either registered  
24 as a vendor pursuant to this subdivision or be licensed pursuant to  
25 either subdivision one or three of this section.

26 Each ancillary casino vendor enterprise required to be licensed pursu-  
27 ant to subdivision three of this section, as well as its owners, manage-  
28 ment and supervisory personnel, and employees if such employees have

1 responsibility for services to a gaming facility applicant or licensee,  
2 shall establish their good character, honesty and integrity by clear and  
3 convincing evidence and shall provide such financial information as may  
4 be required by the commission. Any enterprise required to be licensed  
5 as an ancillary casino vendor enterprise pursuant to this section shall  
6 be permitted to transact business with a gaming facility licensee upon  
7 filing of the appropriate vendor registration form and application for  
8 such licensure.

9     6. Any applicant, licensee or qualifier of a casino vendor enterprise  
10 license or of an ancillary casino vendor enterprise license under subdivi-  
11 sion one of this section, and any vendor registrant under subdivision  
12 five of this section shall be disqualified in accordance with the crite-  
13 ria contained in section one thousand three hundred eighteen of this  
14 article, except that no such ancillary vendor industry enterprise  
15 license under subdivision three of this section or vendor registration  
16 under subdivision five of this section shall be denied or revoked if  
17 such vendor registrant can affirmatively demonstrate rehabilitation as  
18 provided in subdivision three of section one thousand three hundred  
19 twenty-four of this article.

20     7. No casino vendor enterprise license or ancillary casino vendor  
21 enterprise license shall be issued pursuant to subdivision one of this  
22 section to any person unless that person shall provide proof of valid  
23 business registration with the department of state.

24     8. For the purposes of this section, each applicant shall submit to  
25 the commission the name, address, fingerprints and a written consent for  
26 a criminal history record check to be performed, for each person  
27 required to qualify as part of the application. The commission is hereby  
28 authorized to exchange fingerprint data with and receive criminal histo-

1 ry record information from the state division of criminal justice  
2 services and the federal bureau of investigation consistent with appli-  
3 cable state and federal laws, rules and regulations. The applicant shall  
4 bear the cost for the criminal history record check, including all costs  
5 of administering and processing the check. The state division of crimi-  
6 nal justice services shall promptly notify the commission in the event a  
7 current or prospective qualifier, who was the subject of a criminal  
8 history record check pursuant to this section, is arrested for a crime  
9 or offense in this state after the date the check was performed.

10 9. Subsequent to the licensure of any entity pursuant to subdivision  
11 one of this section, including any finding of qualification as may be  
12 required as a condition of licensure, or the registration of any vendor  
13 pursuant to subdivision three of this section, the executive director  
14 may revoke, suspend, limit, or otherwise restrict the license, regis-  
15 tration or qualification status upon a finding that the licensee, regis-  
16 trant or qualifier is disqualified on the basis of the criteria set  
17 forth in section one thousand three hundred eighteen of this article.

18 10. After notice and hearing prior to the suspension of any license,  
19 registration or qualification issued pursuant to subdivision seven of  
20 this section the commission shall have the obligation to prove by  
21 substantial evidence that the licensee, registrant or qualifier is  
22 disqualified on the basis of the criteria set forth in section one thou-  
23 sand three hundred eighteen of this article.

24 § 1327. Approval and denial of vendor registration. 1. A casino  
25 vendor registration shall be effective upon issuance, and shall remain  
26 in effect unless revoked, suspended, limited, or otherwise restricted by  
27 the commission. Notwithstanding the foregoing, if a vendor registrant

1 has not conducted business with a gaming facility for a period of three  
2 years, the registration of that vendor registrant shall lapse.

3 2. The commission shall establish by regulation appropriate fees to be  
4 imposed on each vendor registrant who provides goods or services to a  
5 gaming facility, regardless of the nature of any contractual relation-  
6 ship between the vendor registrant and gaming facility, if any. Such  
7 fees shall be paid to the commission.

8 § 1328. Junket operator licensing. 1. No junkets may be organized or  
9 permitted except in accordance with the provisions of this article. No  
10 person may act as a junket representative or junket enterprise except in  
11 accordance with this section.

12 2. A junket representative employed by a gaming facility licensee, an  
13 applicant for a gaming facility license or an affiliate of a gaming  
14 facility licensee shall be licensed as a casino key employee; provided,  
15 however, that said licensee need not be a resident of this state. No  
16 gaming facility licensee or applicant for a gaming facility license may  
17 employ or otherwise engage a junket representative who is not so  
18 licensed.

19 3. Junket enterprises that, and junket representatives not employed by  
20 a gaming facility licensee or an applicant for a gaming facility license  
21 or by a junket enterprise who, engage in activities governed by this  
22 section shall be licensed as an ancillary casino vendor enterprise in  
23 accordance with subdivision three of section one thousand three hundred  
24 twenty-six of this title, unless otherwise directed by the commission;  
25 provided, however, that any such junket enterprise or junket represen-  
26 tative who has disqualified shall not be entitled to establish his or  
27 her rehabilitation from such disqualification. Any non-supervisory  
28 employee of a junket enterprise or junket representative licensed as an

1 ancillary vendor industry enterprise in accordance with subdivision  
2 three of section one thousand three hundred twenty-six of this title  
3 shall be registered.

4 4. Prior to the issuance of any license required by this section, an  
5 applicant for licensure shall submit to the jurisdiction of the state  
6 and shall demonstrate that he or she is amenable to service of process  
7 within this state. Failure to establish or maintain compliance with the  
8 requirements of this subdivision shall constitute sufficient cause for  
9 the denial, suspension or revocation of any license issued pursuant to  
10 this section.

11 5. Upon petition by the holder of a gaming facility license, an appli-  
12 cant for a casino key employee license intending to be employed as a  
13 junket representative may be issued a temporary license by the commis-  
14 sion in accordance with regulations promulgated, provided that:

15 (a) the applicant for licensure is employed by a gaming facility  
16 licensee; and

17 (b) the applicant for licensure has filed a completed application as  
18 required by the commission.

19 6. The commission shall have the authority to immediately suspend,  
20 limit or condition any temporary license issued pursuant to this  
21 section, pending a hearing on the qualifications of the junket represen-  
22 tative.

23 7. Unless otherwise terminated, any temporary license issued pursuant  
24 to this section shall expire twelve months from the date of its issu-  
25 ance, and shall be renewable by the commission for one additional six  
26 month period.

27 8. Every agreement concerning junkets entered into by a gaming facili-  
28 ty licensee and a junket representative or junket enterprise shall be

1 deemed to include a provision for its termination without liability on  
2 the part of the gaming facility licensee, if the commission orders the  
3 termination upon the suspension, limitation, conditioning, denial or  
4 revocation of the licensure of the junket representative or junket  
5 enterprise. Failure to expressly include such a condition in the agree-  
6 ment shall not constitute a defense in any action brought to terminate  
7 the agreement.

8 9. A gaming facility licensee shall be responsible for the conduct of  
9 any junket representative or junket enterprise associated with it and  
10 for the terms and conditions of any junket engaged in on its premises,  
11 regardless of the fact that the junket may involve persons not employed  
12 by such a gaming facility licensee.

13 10. A gaming facility licensee shall be responsible for any violation  
14 or deviation from the terms of a junket. Notwithstanding any other  
15 provisions of this article, the commission may order restitution to  
16 junket participants, assess penalties for such violations or deviations,  
17 prohibit future junkets by the gaming facility licensee, junket enter-  
18 prise or junket representative, and order such further relief as it  
19 deems appropriate.

20 11. The commission shall, by regulation, prescribe methods, procedures  
21 and forms for the delivery and retention of information concerning the  
22 conduct of junkets by gaming facility licensees. Without limitation of  
23 the foregoing, each gaming facility licensee, in accordance with the  
24 rules of the commission, shall:

25 (a) Maintain on file a report describing the operation of any junket  
26 engaged in on its premises; and  
27 (b) Submit to the commission a list of all its employees who are  
28 acting as junket representatives.

1       12. Each gaming facility licensee, junket representative or junket  
2       enterprise shall, in accordance with the rules of the commission, file a  
3       report with the commission with respect to each list of junket patrons  
4       or potential junket patrons purchased directly or indirectly by the  
5       gaming facility licensee, junket representative or enterprise.

6       13. The commission shall have the authority to determine, either by  
7       regulation, or upon petition by the holder of a gaming facility license,  
8       that a type of arrangement otherwise included within the definition of  
9       "junket" shall not require compliance with any or all of the require-  
10      ments of this section. In granting exemptions, the commission shall  
11      consider such factors as the nature, volume and significance of the  
12      particular type of arrangement, and whether the exemption would be  
13      consistent with the public policies established by this article. In  
14      applying the provisions of this subdivision, the commission may condi-  
15      tion, limit, or restrict any exemption as it may deem appropriate.

16      14. No junket enterprise or junket representative or person acting as  
17      a junket representative may:

18       (a) Engage in efforts to collect upon checks that have been returned  
19       by banks without full and final payment;

20       (b) Exercise approval authority with regard to the authorization or  
21       issuance of credit;

22       (c) Act on behalf of or under any arrangement with a gaming facility  
23       licensee or a gaming patron with regard to the redemption, consol-  
24       idation, or substitution of the gaming patron's checks awaiting deposit;

25       (d) Individually receive or retain any fee from a patron for the priv-  
26       ilege of participating in a junket; and

1       (e) Pay for any services, including transportation, or other items of  
2 value provided to, or for the benefit of, any patron participating in a  
3 junket.

4       § 1329. Lobbyist registration. 1. For purposes of this section, the  
5 terms "lobbyist", "lobbying", "lobbying activities" and "client" shall  
6 have the same meaning as those terms are defined by section one-c of the  
7 legislative law.

8       2. In addition to any other registration and reporting required by  
9 law, each lobbyist seeking to engage in lobbying activity on behalf of a  
10 client or a client's interest before the commission shall first register  
11 with the secretary of the commission. The secretary shall cause a regis-  
12 tration to be available on the commission's website within five days of  
13 submission.

14       § 1330. Registration of labor organizations. 1. Each labor organiza-  
15 tion, union or affiliate seeking to represent employees who are employed  
16 in a gaming facility by a gaming facility licensee shall register with  
17 the commission biennially, and shall disclose such information as the  
18 commission may require, including the names of all affiliated organiza-  
19 tions, pension and welfare systems and all officers and agents of such  
20 organizations and systems; provided, however, that no labor organiza-  
21 tion, union, or affiliate shall be required to furnish such information  
22 to the extent such information is included in a report filed by any  
23 labor organization, union, or affiliate with the Secretary of Labor  
24 pursuant to 29 U.S.C. § 431 et seq. or § 1001 et seq. if a copy of such  
25 report, or of the portion thereof containing such information, is  
26 furnished to the commission pursuant to the aforesaid federal  
27 provisions. The commission may in its discretion exempt any labor organ-  
28 ization, union, or affiliate from the registration requirements of this

1 subdivision where the commission finds that such organization, union or  
2 affiliate is not the certified bargaining representative of any employee  
3 who is employed in a gaming facility by a gaming facility licensee, is  
4 not involved actively, directly or substantially in the control or  
5 direction of the representation of any such employee, and is not seeking  
6 to do so.

7 2. No person may act as an officer, agent or principal employee of a  
8 labor organization, union or affiliate registered or required to be  
9 registered pursuant to this section if the person has been found  
10 disqualified by the commission in accordance with the criteria contained  
11 in section one thousand three hundred eighteen of this article. The  
12 commission may, for purposes of this subdivision, waive any disquali-  
13 fication criterion consistent with the public policy of this article and  
14 upon a finding that the interests of justice so require.

15 3. Neither a labor organization, union or affiliate nor its officers  
16 and agents not otherwise individually licensed or registered under this  
17 article and employed by a gaming facility licensee may hold any finan-  
18 cial interest whatsoever in the gaming facility or gaming facility  
19 licensee whose employees they represent.

20 4. The commission may maintain a civil action and proceed in a summary  
21 manner, without posting bond, against any person, including any labor  
22 organization, union or affiliate, to compel compliance with this  
23 section, or to prevent any violations, the aiding and abetting thereof,  
24 or any attempt or conspiracy to violate this section.

25 5. In addition to any other remedies provided in this section, a labor  
26 organization, union or affiliate registered or required to be registered  
27 pursuant to this section may be prohibited by the commission from  
28 receiving any dues from any employee licensed or registered under this

1 article and employed by a gaming facility licensee or its agent, if any  
2 officer, agent or principal employee of the labor organization, union or  
3 affiliate has been found disqualified and if such disqualification has  
4 not been waived by the commission in accordance with subdivision two of  
5 this section.

TITLE 5

## REQUIREMENTS FOR CONDUCT AND OPERATION OF GAMING

## 8 Section 1331. Operation certificate.

1332. Age for gaming participation.

10                   1333. Hours of operation.

## 11 1334. Internal controls.

12                  1335. Games and gaming equipment.

13 1336. Certain wagering prohibited.

**14**            **1337. Gratuities.**

## 1338. Limitation

## 1339. Credit.

17 1340 Alcohol

## 18 1341 Licences, leases and

### 13.4.2 Required evaluation of constraints

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sees and applicants.

26 § 1331. Operation certificate. 1. Notwithstanding the issuance of a  
27 license therefor, no gaming facility may be opened or remain open to the  
28 public, and no gaming activity, except for test purposes, may be

1 conducted therein, unless and until a valid operation certificate has  
2 been issued to the gaming facility licensee by the commission. Such  
3 certificate shall be issued by the executive director upon a determi-  
4 nation that a gaming facility complies in all respects with the require-  
5 ments of this article and regulations promulgated hereunder, and that  
6 the gaming facility is prepared in all respects to receive and entertain  
7 the public.

8 2. An operation certificate shall remain in force and effect unless  
9 revoked, suspended, limited, or otherwise altered by the commission in  
10 accordance with this article.

11 3. It shall be an express condition of continued operation under this  
12 article that a gaming facility licensee shall maintain either electron-  
13 ically or in hard copy at the discretion of the gaming facility licen-  
14 see, copies of all books, records, and documents pertaining to the  
15 licensee's operations and approved hotel in a manner and location  
16 approved by the commission, provided, however, that the originals of  
17 such books, records and documents, whether in electronic or hard copy  
18 form, may be maintained at the offices or electronic system of an affil-  
19 iate of the gaming facility licensee, at the discretion of the gaming  
20 facility licensee. All such books, records and documents shall be imme-  
21 dately available for inspection during all hours of operation in  
22 accordance with the rules of the commission and shall be maintained for  
23 such period of time as the commission shall require.

24 § 1332. Age for gaming participation. 1. No person under the age at  
25 which a person is authorized to purchase and consume alcoholic beverages  
26 shall enter, or wager in, a licensed gaming facility; provided, however,  
27 that such a person may enter a gaming facility by way of passage to  
28 another room, and provided further, however, that any such person who is

1   licensed or registered under the provisions of this article may enter a  
2   gaming facility in the regular course of the person's permitted activ-  
3   ties.

4   2. Any person disqualified pursuant to subdivision one of this section  
5   entitled to funds, cash or prizes from gambling activity shall forfeit  
6   same. Such forfeited funds, cash or prizes shall be remitted to the  
7   commission and deposited into the commercial gaming revenue fund.

8   § 1333. Hours of operation. 1. Each gaming facility licensed pursuant  
9   to this article shall be permitted to operate twenty-four hours a day  
10   unless otherwise directed by the commission.

11   2. A gaming facility licensee shall file with the commission a sched-  
12   ule of hours prior to the issuance of an initial operation certificate.  
13   If the gaming facility licensee proposes any change in scheduled hours,  
14   such change may not be effected until such licensee files a notice of  
15   the new schedule of hours with the commission. Such filing must be made  
16   thirty days prior to the effective date of the proposed change in hours.

17   3. Nothing in this section shall be construed to limit a gaming facil-  
18   ity licensee in opening its casino later than, or closing its casino  
19   earlier than, the times stated in its schedule of operating hours;  
20   provided, however, that any such alterations in its hours shall comply  
21   with the provisions of subdivision one of this section and with regu-  
22   lations of the commission pertaining to such alterations.

23   § 1334. Internal controls. 1. Each applicant for a gaming facility  
24   license shall create, maintain, and file with the commission a  
25   description of its internal procedures and administrative and accounting  
26   controls for gaming operations that conform to commission regulations  
27   and provide adequate and effective controls, establish a consistent  
28   overall system of internal procedures and administrative and accounting

1   controls and conform to generally accepted accounting principles, and  
2   ensure that gaming facility procedures are carried out and supervised by  
3   personnel who do not have incompatible functions. A gaming facility  
4   licensee's internal controls shall contain a narrative description of  
5   the internal control system to be utilized by the gaming facility,  
6   including, but not limited to:

7       (a) Accounting controls, including the standardization of forms and  
8       definition of terms to be utilized in the gaming operations;

9       (b) Procedures, forms, and, where appropriate, formulas covering the  
10      calculation of hold percentages; revenue drop; expense and overhead  
11      schedules; complimentary service or item; junkets; and cash equivalent  
12      transactions;

13      (c) Procedures within the cashier's cage for the receipt, storage and  
14      disbursal of chips, cash, and other cash equivalents used in gaming; the  
15      cashing of checks; the redemption of chips and other cash equivalents  
16      used in gaming; the pay-off of jackpots; and the recording of trans-  
17      actions pertaining to gaming operations;

18      (d) Procedures for the collection and security of moneys at the gaming  
19      tables;

20      (e) Procedures for the transfer and recordation of chips between the  
21      gaming tables and the cashier's cage;

22      (f) Procedures for the transfer of moneys from the gaming tables to  
23      the counting process;

24      (g) Procedures and security for the counting and recordation of reven-  
25      ue;

26      (h) Procedures for the security, storage and recordation of cash,  
27      chips and other cash equivalents utilized in the gaming;

1       (i) Procedures for the transfer of moneys or chips from and to the  
2       slot machines;

3       (j) Procedures and standards for the opening and security of slot  
4       machines;

5       (k) Procedures for the payment and recordation of slot machine jack-  
6       pots;

7       (l) Procedures for the cashing and recordation of checks exchanged by  
8       casino patrons;

9       (m) Procedures governing the utilization of the private security force  
10      within the gaming facility;

11      (n) Procedures and security standards for the handling and storage of  
12      gaming apparatus including cards, dice, machines, wheels and all other  
13      gaming equipment;

14      (o) Procedures and rules governing the conduct of particular games and  
15      the responsibility of gaming facility personnel in respect thereto;

16      (p) Procedures for the orderly shutdown of gaming facility operations  
17      in the event that a state of emergency is declared and the gaming facil-  
18      ity licensee is unable or ineligible to continue to conduct gaming  
19      facility operations during such a state of emergency, which procedures  
20      shall include, without limitation, the securing of all keys and gaming  
21      assets.

22      2. No minimum staffing requirements shall be included in the internal  
23      controls created in accordance with subdivision one of this section.

24      § 1335. Games and gaming equipment. 1. This article shall not be  
25      construed to permit any gaming except the conduct of authorized games in  
26      a casino in accordance with this article and the regulations promulgated  
27      hereunder.

1       2. Gaming equipment shall not be possessed, maintained or exhibited by  
2       any person on the premises of a gaming facility except in a casino or in  
3       restricted casino areas used for the inspection, repair or storage of  
4       such equipment and specifically designated for that purpose by the  
5       gaming facility licensee with the approval of the commission. Gaming  
6       equipment that supports the conduct of gaming in a gaming facility but  
7       does not permit or require patron access, such as computers, may be  
8       possessed and maintained by a gaming facility licensee or a qualified  
9       holding or intermediary company of a gaming facility licensee in  
10      restricted areas specifically approved by the commission. No gaming  
11      equipment shall be possessed, maintained, exhibited, brought into or  
12      removed from a gaming facility by any person unless such equipment is  
13      necessary to the conduct of an authorized game, has permanently affixed,  
14      imprinted, impressed or engraved thereon an identification number or  
15      symbol authorized by the commission, is under the exclusive control of a  
16      gaming facility licensee or gaming facility licensee's employees, or of  
17      any individually qualified employee of a holding company or gaming  
18      facility licensee and is brought into or removed from the gaming facili-  
19      ty following twenty-four hour prior notice given to an authorized agent  
20      of the commission.

21      Notwithstanding any other provision of this section, computer equip-  
22      ment used by the slot system operator of a multi-casino progressive slot  
23      system to link and communicate with the slot machines of two or more  
24      gaming facility licensees for the purpose of calculating and displaying  
25      the amount of a progressive jackpot, monitoring the operation of the  
26      system, and any other purpose that the commission deems necessary and  
27      appropriate to the operation or maintenance of the multi-casino progres-  
28      sive slot machine system may, with the prior approval of the commission,

1 be possessed, maintained and operated by the slot system operator either  
2 in a restricted area on the premises of a gaming facility or in a secure  
3 facility inaccessible to the public and specifically designed for that  
4 purpose off the premises of a gaming facility with the written permis-  
5 sion of the commission. Notwithstanding the foregoing, a person may,  
6 with the prior approval of the commission and under such terms and  
7 conditions as may be required by the commission, possess, maintain or  
8 exhibit gaming equipment in any other area of the gaming facility,  
9 provided that such equipment is used for nongaming purposes. Notwith-  
10 standing any other provision of this article to the contrary, the  
11 commission may, by regulation, authorize the linking of slot machines of  
12 one or more gaming facility licensees and slot machines located in casi-  
13 nos licensed by another state of the United States. Wagering and account  
14 information for a multi-state slot system shall be transmitted by the  
15 operator of such multi-state slot system to either a restricted area on  
16 the premises of a gaming facility or to a secure facility inaccessible  
17 to the public and specifically designed for that purpose with the writ-  
18 ten permission of the commission, and from there to slot machines of  
19 gaming facility licensees, provided all locations are approved by the  
20 commission.

21 3. Each gaming facility shall contain a count room and such other  
22 secure facilities as may be required by the commission for the counting  
23 and storage of cash, coins, tokens, checks, plaques, gaming vouchers,  
24 coupons, and other devices or items of value used in wagering and  
25 approved by the commission that are received in the conduct of gaming  
26 and for the inspection, counting and storage of dice, cards, chips and  
27 other representatives of value. The commission shall promulgate regu-  
28 lations for the security of drop boxes and other devices in which the

1 foregoing items are deposited at the gaming tables or in slot machines,  
2 and all areas wherein such boxes and devices are kept while in use,  
3 which regulations may include certain locking devices. Said drop boxes  
4 and other devices shall not be brought into or removed from a gaming  
5 facility, or locked or unlocked, except at such times, in such places,  
6 and according to such procedures as the commission may require.

7 4. All chips used in gaming shall be of such size and uniform color by  
8 denomination as the commission shall require by regulation.

9 5. All gaming shall be conducted according to rules promulgated by the  
10 commission. All wagers and pay-offs of winning wagers shall be made  
11 according to rules promulgated by the commission, which shall establish  
12 such limitations as may be necessary to assure the vitality of casino  
13 operations and fair odds to patrons. Each slot machine shall have a  
14 minimum payout of eighty-five percent.

15 6. Each gaming facility licensee shall make available in printed form  
16 to any patron upon request the complete text of the rules of the commis-  
17 sion regarding games and the conduct of gaming, pay-offs of winning  
18 wagers, an approximation of the odds of winning for each wager, and such  
19 other advice to the player as the commission shall require. Each gaming  
20 facility licensee shall prominently post within a casino, according to  
21 regulations of the commission such information about gaming rules, pay-  
22 offs of winning wagers, the odds of winning for each wager, and such  
23 other advice to the player as the commission shall require.

24 7. Each gaming table shall be equipped with a sign indicating the  
25 permissible minimum and maximum wagers pertaining thereto. It shall be  
26 unlawful for a gaming facility licensee to require any wager to be  
27 greater than the stated minimum or less than the stated maximum;  
28 provided, however, that any wager actually made by a patron and not

1 rejected by a gaming facility licensee prior to the commencement of play  
2 shall be treated as a valid wager.

3     8. Testing of slot machines and associated devices. (a) Except as  
4 herein provided, no slot machine shall be used to conduct gaming unless  
5 it is identical in all electrical, mechanical and other aspects to a  
6 model thereof which has been specifically tested and licensed for use by  
7 the commission. The commission shall also test or cause to be tested any  
8 other gaming device, gaming equipment, gaming-related device or gross-  
9 revenue related device, such as a slot management system, electronic  
10 transfer credit system or gaming voucher system as it deems appropriate.  
11 In its discretion and for the purpose of expediting the approval proc-  
12 ess, the commission may utilize the services of a private testing labo-  
13 ratory that has obtained a plenary license as a casino vendor enterprise  
14 to perform the testing, and may also utilize applicable data from any  
15 such private testing laboratory or from a governmental agency of a state  
16 authorized to regulate slot machines and other gaming devices, gaming  
17 equipment, gaming-related devices and gross-revenue related devices used  
18 in gaming, if the private testing laboratory or governmental agency uses  
19 a testing methodology substantially similar to the methodology approved  
20 or utilized by the commission. The commission, in its discretion, may  
21 rely upon the data provided by the private testing laboratory or govern-  
22 mental agency and adopt the conclusions of such private testing labora-  
23 tory or governmental agency regarding any submitted device.

24     (b) Except as otherwise provided in paragraph (e) of this subdivision,  
25 the commission shall, within sixty days of its receipt of a complete  
26 application for the testing of a slot machine or other gaming equipment  
27 model, approve or reject the slot machine or other gaming equipment  
28 model. In so doing, the commission shall specify whether and to what

1 extent any data from a private testing laboratory or governmental agency  
2 of a state was used in reaching its conclusions and recommendation. If  
3 the commission is unable to complete the testing of a slot machine or  
4 other gaming equipment model within this sixty day period, the commis-  
5 sion may conditionally approve the slot machine or other gaming equip-  
6 ment model for test use by a gaming facility licensee provided that the  
7 commission represents that the use of the slot machine or other gaming  
8 equipment model will not have a direct and materially adverse impact on  
9 the integrity of gaming or the control of gross revenue. The commission  
10 shall give priority to the testing of slot machines or other gaming  
11 equipment that a gaming facility licensee has certified it will use in  
12 its gaming facility in this state.

13       (c) The commission shall, by regulation, establish such technical  
14       standards for licensure of slot machines, including mechanical and elec-  
15       trical reliability, security against tampering, the comprehensibility of  
16       wagering, and noise and light levels, as it may deem necessary to  
17       protect the player from fraud or deception and to insure the integrity  
18       of gaming. The denominations of such machines shall be set by the licen-  
19       see; the licensee shall simultaneously notify the commission of the  
20       settings.

21       (d) The commission shall, by regulation, determine the permissible  
22       number and density of slot machines in a licensed gaming facility so as  
23       to:

24       (1) promote optimum security for gaming facility operations;  
25       (2) avoid deception or frequent distraction to players at gaming  
26       tables;  
27       (3) promote the comfort of patrons;

1       (4) create and maintain a gracious playing environment in the gaming  
2       facility; and

3       (5) encourage and preserve competition in gaming facility operations  
4       by assuring that a variety of gaming opportunities is offered to the  
5       public.

6       Any such regulation promulgated by the commission which determines the  
7       permissible number and density of slot machines in a licensed gaming  
8       facility shall provide that all casinos shall be included in any calcu-  
9       lation of the permissible number and density of slot machines in a  
10      licensed gaming facility.

11      (e) Any new gaming equipment that is submitted for testing to the  
12      commission or to a state licensed independent testing laboratory prior  
13      to or simultaneously with submission of such new equipment for testing  
14      in a jurisdiction other than this state, may, consistent with regu-  
15      lations promulgated by the commission, be deployed by a gaming facility  
16      licensee on the casino fourteen days after submission of such equipment  
17      for testing. If the gaming facility or casino vendor enterprise licensee  
18      has not received approval for the equipment fourteen days after  
19      submission for testing, any interested gaming facility licensee may,  
20      consistent with commission regulations, deploy the equipment on a field  
21      test basis, unless otherwise directed by the executive director.

22      9. It shall be unlawful for any person to exchange or redeem chips for  
23      anything whatsoever, except for currency, negotiable personal checks,  
24      negotiable counter checks, other chips, coupons, slot vouchers or  
25      complimentary vouchers distributed by the gaming facility licensee, or,  
26      if authorized by regulation of the commission, a valid charge to a cred-  
27      it or debit card account. A gaming facility licensee shall, upon the  
28      request of any person, redeem that licensee's gaming chips surrendered

1 by that person in any amount over one hundred dollars with a check drawn  
2 upon the licensee's account at any banking institution in this state and  
3 made payable to that person.

4 10. It shall be unlawful for any gaming facility licensee or its  
5 agents or employees to employ, contract with, or use any shill or barker  
6 to induce any person to enter a gaming facility or play at any game or  
7 for any purpose whatsoever.

8 11. It shall be unlawful for a dealer in any authorized game in which  
9 cards are dealt to deal cards by hand or other than from a device  
10 specifically designed for that purpose, unless otherwise permitted by  
11 the rules of the commission.

12 § 1336. Certain wagering prohibited. 1. It shall be unlawful for any  
13 casino key employee licensee to wager in any gaming facility in this  
14 state.

15 2. It shall be unlawful for any other employee of a gaming facility  
16 licensee who, in the judgment of the commission, is directly involved  
17 with the conduct of gaming operations, including but not limited to  
18 dealers, floor persons, box persons, security and surveillance employ-  
19 ees, to engage in gambling in any gaming facility in which the employee  
20 is employed or in any other gaming facility in this state which is owned  
21 or operated by the gaming facility licensee or an affiliated licensee.

22 3. The prohibition against wagering set forth in subdivisions one and  
23 two of this section shall continue for a period of thirty days commenc-  
24 ing upon the date that the employee either leaves employment with a  
25 gaming facility licensee or is terminated from employment with a gaming  
26 facility licensee.

27 § 1337. Gratuities. 1. It shall be unlawful for any casino key  
28 employee or boxman, floorman, or any other gaming employee who shall

1 serve in a supervisory position to solicit or accept, and for any other  
2 gaming employee to solicit, any tip or gratuity from any player or  
3 patron at the gaming facility where he is employed.

4   2. A dealer may accept tips or gratuities from a patron at the table  
5   at which such dealer is conducting play, subject to the provisions of  
6   this section. All such tips or gratuities shall be immediately deposit-  
7   ed in a lockbox reserved for that purpose, unless the tip or gratuity is  
8   authorized by a patron utilizing an automated wagering system approved  
9   by the commission. All tips or gratuities shall be accounted for, and  
10   placed in a pool for distribution pro rata among the dealers, with the  
11   distribution based upon the number of hours each dealer has worked,  
12   except that the commission may, by regulation, permit a separate pool to  
13   be established for dealers in the game of poker, or may permit tips or  
14   gratuities to be retained by individual dealers in the game of poker.

15   3. Notwithstanding the provisions of subdivision one of this section,  
16   a gaming facility licensee may require that a percentage of the prize  
17   pool offered to participants pursuant to an authorized poker tournament  
18   be withheld for distribution to the tournament dealers as tips or gratu-  
19   ties as the commission by regulation may approve.

20   § 1338. Limitation on certain financial access. In order to protect  
21   the public interest, the commission shall adopt regulations that include  
22   provisions that:

23   1. limit the number and location of and maximum withdrawal amounts  
24   from automated teller machines;  
25   2. prohibit authorized automated teller machines from accepting elec-  
26   tronic benefit cards, debit cards, or similar negotiable instruments  
27   issued by the state or political subdivisions for the purpose of access-  
28   ing temporary public assistance;

1       3. prohibit the use of specified negotiable instruments at gaming  
2       facilities and the use of credit cards, debit cards, and similar devices  
3       in slot machines or at table games; and

4       4. prohibit consumers from cashing paychecks at gaming facilities.

5       § 1339. Credit. 1. Except as otherwise provided in this section, no  
6       gaming facility licensee or any person licensed under this article, and  
7       no person acting on behalf of or under any arrangement with a gaming  
8       facility licensee or other person licensed under this article, shall:

9            (a) Cash any check, make any loan, or otherwise provide or allow to  
10       any person any credit or advance of anything of value or which repres-  
11       ents value to enable any person to take part in gaming activity as a  
12       player; or

13            (b) Release or discharge any debt, either in whole or in part, or make  
14       any loan which represents any losses incurred by any player in gaming  
15       activity, without maintaining a written record thereof in accordance  
16       with the rules of the commission.

17       2. No gaming facility licensee or any person licensed under this arti-  
18       cle, and no person acting on behalf of or under any arrangement with a  
19       gaming facility licensee or other person licensed under this article,  
20       may accept a check, other than a recognized traveler's check or other  
21       cash equivalent from any person to enable such person to take part in  
22       gaming activity as a player, or may give cash or cash equivalents in  
23       exchange for such check unless:

24            (a) The check is made payable to the gaming facility licensee;

25            (b) The check is dated, but not postdated;

26            (c) The check is presented to the cashier or the cashier's represen-  
27       tative at a location in the gaming facility approved by the commission  
28       and is exchanged for cash or slot tokens which total an amount equal to

1   the amount for which the check is drawn, or the check is presented to  
2   the cashier's representative at a gaming table in exchange for chips  
3   which total an amount equal to the amount for which the check is drawn;  
4   and

5    (d) The regulations concerning check cashing procedures are observed  
6   by the gaming facility licensee and its employees and agents. Nothing  
7   in this subdivision shall be deemed to preclude the establishment of an  
8   account by any person with a gaming facility licensee by a deposit of  
9   cash, recognized traveler's check or other cash equivalent, or a check  
10   which meets the requirements of subdivision seven of this section, or to  
11   preclude the withdrawal, either in whole or in part, of any amount  
12   contained in such account.

13   3. When a gaming facility licensee or other person licensed under this  
14   article, or any person acting on behalf of or under any arrangement with  
15   a gaming facility licensee or other person licensed under this article,  
16   cashes a check in conformity with the requirements of subdivision two of  
17   this section, the gaming facility licensee shall cause the deposit of  
18   such check in a bank for collection or payment, or shall require an  
19   attorney or casino key employee with no incompatible functions to pres-  
20   ent such check to the drawer's bank for payment, within:

21    (a) seven calendar days of the date of the transaction for a check in  
22   an amount of one thousand dollars or less;  
23    (b) fourteen calendar days of the date of the transaction for a check  
24   in an amount greater than one thousand dollars but less than or equal to  
25   five thousand dollars; or  
26    (c) forty-five calendar days of the date of the transaction for a  
27   check in an amount greater than five thousand dollars.

1       Notwithstanding the foregoing, the drawer of the check may redeem the  
2       check by exchanging cash, cash equivalents, chips, or a check which  
3       meets the requirements of subdivision seven of this section in an amount  
4       equal to the amount for which the check is drawn; or he or she may  
5       redeem the check in part by exchanging cash, cash equivalents, chips, or  
6       a check which meets the requirements of subdivision seven of this  
7       section and another check which meets the requirements of subdivision  
8       two of this section for the difference between the original check and  
9       the cash, cash equivalents, chips, or check tendered; or he or she may  
10      issue one check which meets the requirements of subdivision two of this  
11      section in an amount sufficient to redeem two or more checks drawn to  
12      the order of the gaming facility licensee. If there has been a partial  
13      redemption or a consolidation in conformity with the provisions of this  
14      subdivision, the newly issued check shall be delivered to a bank for  
15      collection or payment or presented to the drawer's bank for payment by  
16      an attorney or casino key employee with no incompatible functions within  
17      the period herein specified. No gaming facility licensee or any person  
18      licensed or registered under this article, and no person acting on  
19      behalf of or under any arrangement with a gaming facility licensee or  
20      other person licensed under this article, shall accept any check or  
21      series of checks in redemption or consolidation of another check or  
22      checks in accordance with this subdivision for the purpose of avoiding  
23      or delaying the deposit of a check in a bank for collection or payment  
24      or the presentment of the check to the drawer's bank within the time  
25      period prescribed by this subdivision.

26      In computing a time period prescribed by this subdivision, the last  
27      day of the period shall be included unless it is a Saturday, Sunday, or

1   a state or federal holiday, in which event the time period shall run  
2   until the next business day.

3   4. No gaming facility licensee or any other person licensed or regis-  
4   tered under this article, or any other person acting on behalf of or  
5   under any arrangement with a gaming facility licensee or other person  
6   licensed or registered under this article, shall transfer, convey, or  
7   give, with or without consideration, a check cashed in conformity with  
8   the requirements of this section to any person other than:

9    (a) The drawer of the check upon redemption or consolidation in  
10   accordance with subdivision three of this section;

11    (b) A bank for collection or payment of the check;

12    (c) A purchaser of the gaming facility license as approved by the  
13   commission; or

14    (d) An attorney or casino key employee with no incompatible functions  
15   for presentment to the drawer's bank.

16   The limitation on transferability of checks imposed herein shall apply  
17   to checks returned by any bank to the gaming facility licensee without  
18   full and final payment.

19   5. No person other than a casino key employee licensed under this  
20   article or a gaming employee registered under this article may engage  
21   in efforts to collect upon checks that have been returned by banks with-  
22   out full and final payment, except that an attorney-at-law representing  
23   a gaming facility licensee may bring action for such collection.

24   6. Notwithstanding the provisions of any law to the contrary, checks  
25   cashed in conformity with the requirements of this article shall be  
26   valid instruments, enforceable at law in the courts of this state. Any  
27   check cashed, transferred, conveyed or given in violation of this arti-

1   cle shall be invalid and unenforceable for the purposes of collection  
2   but shall be included in the calculation of gross gaming revenue.

3   7. Notwithstanding the provisions of subdivision two of this section  
4   to the contrary, a gaming facility licensee may accept a check from a  
5   person to enable the person to take part in gaming activity as a player,  
6   may give cash or cash equivalents in exchange for such a check, or may  
7   accept a check in redemption or partial redemption of a check issued in  
8   accordance with subdivision two of this section, provided that:

9    (a) (1) The check is issued by a gaming facility licensee, is made  
10   payable to the person presenting the check, and is issued for a purpose  
11   other than employment compensation or as payment for goods or services  
12   rendered;

13    (2) The check is issued by a banking institution which is chartered in  
14   a country other than the United States on its account at a federally  
15   chartered or state-chartered bank and is made payable to "cash," "bear-  
16   er," a gaming facility licensee, or the person presenting the check;

17    (3) The check is issued by a banking institution which is chartered in  
18   the United States on its account at another federally chartered or  
19   state-chartered bank and is made payable to "cash," "bearer," a gaming  
20   facility licensee, or the person presenting the check;

21    (4) The check is issued by a slot system operator or pursuant to an  
22   annuity jackpot guarantee as payment for winnings from a multi-casino  
23   progressive slot machine system jackpot; or

24    (5) The check is issued by an entity that holds a gaming facility  
25   license in any jurisdiction, is made payable to the person presenting  
26   the check, and is issued for a purpose other than employment compen-  
27   sation or as payment for goods or services rendered;

1       (b) The check is identifiable in a manner approved by the commission  
2 as a check authorized for acceptance pursuant to paragraph (a) of this  
3 subdivision;

4       (c) The check is dated, but not postdated;

5       (d) The check is presented to the cashier or the cashier's represen-  
6 tative by the original payee and its validity is verified by the drawer  
7 in the case of a check drawn pursuant to subparagraph one of paragraph  
8 (a) of this subdivision, or the check is verified in accordance with  
9 regulations promulgated under this article in the case of a check issued  
10 pursuant to subparagraph two, three, four or five of paragraph (a) of  
11 this subdivision; and

12       (e) The regulations concerning check-cashing procedures are observed  
13 by the gaming facility licensee and its employees and agents. No gaming  
14 facility licensee shall issue a check for the purpose of making a loan  
15 or otherwise providing or allowing any advance or credit to a person to  
16 enable the person to take part in gaming activity as a player.

17       8. Notwithstanding the provisions of subdivisions two and three of  
18 this section to the contrary, a gaming facility licensee may, at a  
19 location outside the gaming facility, accept a personal check or checks  
20 from a person for up to five thousand dollars in exchange for cash or  
21 cash equivalents, and may, at such locations within the gaming facility  
22 as may be permitted by the commission, accept a personal check or checks  
23 for up to five thousand dollars in exchange for cash, cash equivalents,  
24 tokens, chips, or plaques to enable the person to take part in gaming  
25 activity as a player, provided that:

26       (a) The check is drawn on the patron's bank or brokerage cash manage-  
27 ment account;

28       (b) The check is for a specific amount;

1       (c) The check is made payable to the gaming facility licensee;

2       (d) The check is dated but not post-dated;

3       (e) The patron's identity is established by examination of one of the  
4 following: valid credit card, driver's license, passport, or other form  
5 of identification credential which contains, at a minimum, the patron's  
6 signature;

7       (f) The check is restrictively endorsed "For Deposit Only" to the  
8 gaming facility licensee's bank account and deposited on the next bank-  
9 ing day following the date of the transaction;

10      (g) The total amount of personal checks accepted by any one licensee  
11 pursuant to this subdivision that are outstanding at any time, including  
12 the current check being submitted, does not exceed five thousand  
13 dollars;

14      (h) The gaming facility licensee has a system of internal controls in  
15 place that will enable it to determine the amount of outstanding  
16 personal checks received from any patron pursuant to this subdivision at  
17 any given point in time; and

18      (i) The gaming facility licensee maintains a record of each such trans-  
19 action in accordance with regulations established by the commission.

20      9. A person may request the commission to put that person's name on a  
21 list of persons to whom the extension of credit by a gaming facility as  
22 provided in this section would be prohibited by submitting to the  
23 commission the person's name, address, and date of birth. The person  
24 does not need to provide a reason for this request. The commission shall  
25 provide this list to the credit department of each gaming facility;  
26 neither the commission nor the credit department of a gaming facility  
27 shall divulge the names on this list to any person or entity other than  
28 those provided for in this subdivision. If such a person wishes to have

1 that person's name removed from the list, the person shall submit this  
2 request to the commission, which shall so inform the credit departments  
3 of gaming facilities no later than three days after the submission of  
4 the request.

5 § 1340. Alcoholic beverages. 1. Notwithstanding any law to the  
6 contrary, the authority to grant any license or permit for, or to permit  
7 or prohibit the presence of, alcoholic beverages in, on, or about any  
8 premises licensed as part of a gaming facility shall exclusively be  
9 vested in the commission.

10 2. Unless otherwise stated, and except where inconsistent with the  
11 purpose or intent of this article or the common understanding of usage  
12 thereof, definitions contained in the alcoholic beverage control law  
13 shall apply to this section. Any definition contained therein shall  
14 apply to the same word in any form.

15 3. Notwithstanding any provision of the alcoholic beverage control law  
16 to the contrary, the commission shall have the functions, powers and  
17 duties of the state liquor authority but only with respect to the issu-  
18 ance, renewal, transfer, suspension and revocation of licenses and  
19 permits for the sale of alcoholic beverages at retail by any holder of a  
20 gaming facility license issued by the commission including, without  
21 limitation, the power to fine or penalize a casino alcoholic beverage  
22 licensee or permittee; to enforce all statutes, laws, rulings, or regu-  
23 lations relating to such license or permit; and to collect license and  
24 permit fees and establish application standards therefor.

25 4. Except as otherwise provided in this section, the provisions of the  
26 alcoholic beverage control law and the rules, regulations, bulletins,  
27 orders, and advisories promulgated by the state liquor authority shall

1 apply to any gaming facility holding a license or permit to sell alco-  
2 holic beverages under this section.

3 5. Notwithstanding any provision to the contrary, the commission may  
4 promulgate any regulations and special rulings and findings as may be  
5 necessary for the proper enforcement, regulation, and control of alco-  
6 holic beverages in gaming facilities when the commission finds that the  
7 uniqueness of gaming facility operations and the public interest require  
8 that such regulations, rulings, and findings are appropriate.

9 6. Notwithstanding any provision of law to the contrary, any manufac-  
10 turer or wholesaler licensed under the alcoholic beverage control law  
11 may sell alcoholic beverages to a gaming facility holding a license or  
12 permit to sell alcoholic beverages issued under this section, and any  
13 gaming facility holding a license or permit to sell alcoholic beverages  
14 issued under this section may purchase alcoholic beverages from a  
15 manufacturer or wholesaler licensed under the alcoholic beverage control  
16 law.

17 7. It shall be unlawful for any person, including any gaming facility  
18 licensee or any of its lessees, agents or employees, to expose for sale,  
19 solicit or promote the sale of, possess with intent to sell, sell, give,  
20 dispense, or otherwise transfer or dispose of alcoholic beverages in, on  
21 or about any portion of the premises of a gaming facility, unless said  
22 person possesses a license or permit issued under this section.

23 8. It shall be unlawful for any person holding a license or permit to  
24 sell alcoholic beverages under this section to expose, possess, sell,  
25 give, dispense, transfer, or otherwise dispose of alcoholic beverages,  
26 other than within the terms and conditions of such license or permit,  
27 the provisions of the alcoholic beverage control law, the rules and  
28 regulations promulgated by the state liquor authority, and, when appli-

1 cable, the regulations promulgated pursuant to this article. Notwith-  
2 standing any other provision of law to the contrary the holder of a  
3 license or permit issued under this section may be authorized to provide  
4 complimentary alcoholic beverages under regulations issued by the  
5 commission.

6 9. In issuing a casino alcoholic beverage license or permit, the  
7 commission shall describe the scope of the particular license or permit,  
8 and the restrictions and limitations thereon as it deems necessary and  
9 reasonable. The commission may, in a single casino alcoholic beverage  
10 license, permit the holder of such a license or permit to perform any or  
11 all of the following activities, subject to applicable laws, rules and  
12 regulations:

13 (a) To sell any alcoholic beverage by the glass or other open recepta-  
14 cle including, but not limited to, an original container, for on-premise  
15 consumption within a facility; provided, however, that no alcoholic  
16 beverage shall be sold or given for consumption; delivered or otherwise  
17 brought to a patron; or consumed at a gaming table unless so requested  
18 by the patron.

19 (b) To sell any alcoholic beverage by the glass or other open recepta-  
20 cle for on-premise consumption within a gaming facility.

21 (c) To sell any alcoholic beverage by the glass or other open recepta-  
22 cle or in original containers from a room service location within an  
23 enclosed room not in a gaming facility; provided, however, that any sale  
24 of alcoholic beverages is delivered only to a guest room or to any other  
25 room in the gaming facility authorized by the commission.

26 (d) To possess or to store alcoholic beverages in original containers  
27 intended but not actually exposed for sale at a fixed location on a  
28 gaming facility premises, not in a gaming facility; and to transfer or

1 deliver such alcoholic beverages only to a location approved pursuant to  
2 this section; provided, however, that no access to or from a storage  
3 location shall be permitted except during the normal course of business  
4 by employees or agents of the licensee, or by licensed employees or  
5 agents of wholesalers or distributors licensed pursuant to the alcoholic  
6 beverage control law and any applicable rules and regulations; and  
7 provided further, however, that no provision of this section shall be  
8 construed to prohibit a casino alcoholic beverage licensee from obtain-  
9 ing an off-site storage license from the state liquor authority.

10     10. The commission may revoke, suspend, refuse to renew or refuse to  
11 transfer any casino alcoholic beverage license or permit, and may fine  
12 or penalize the holder of any alcoholic beverage license or permit  
13 issued under this section for violations of any provision of the alco-  
14 holic beverage control law, the rules and regulations promulgated by the  
15 state liquor authority, and the regulations promulgated by the commis-  
16 sion.

17     11. Jurisdiction over all alcoholic beverage licenses and permits  
18 previously issued with respect to the gaming facility is hereby vested  
19 in the commission, which in its discretion may by regulation provide for  
20 the conversion thereof into a casino alcoholic beverage license or  
21 permit as provided in this section.

22     § 1341. Licensee leases and contracts. 1. Unless otherwise provided  
23 in this subdivision, no agreement shall be lawful which provides for the  
24 payment, however defined, of any direct or indirect interest, percentage  
25 or share of: any money or property gambled at a gaming facility; any  
26 money or property derived from gaming activity; or any revenues, profits  
27 or earnings of a gaming facility. Notwithstanding the foregoing:

1       (a) Agreements which provide only for the payment of a fixed sum which  
2       is in no way affected by the amount of any such money, property, revenue-  
3       ues, profits or earnings shall not be subject to the provisions of this  
4       subdivision; and receipts, rentals or charges for real property,  
5       personal property or services shall not lose their character as payments  
6       of a fixed sum because of contract, lease, or license provisions for  
7       adjustments in charges, rentals or fees on account of changes in taxes  
8       or assessments, cost-of-living index escalations, expansion or improve-  
9       ment of facilities, or changes in services supplied.

10      (b) Agreements between a gaming facility licensee and a junket enter-  
11     prise or junket representative licensed, qualified or registered in  
12     accordance with the provisions this article and the regulations of the  
13     commission which provide for the compensation of the junket enterprise  
14     or junket representative by the gaming facility licensee based upon the  
15     actual gaming activities of a patron procured or referred by the junket  
16     enterprise or junket representative shall be lawful if filed with the  
17     commission prior to the conduct of any junket that is governed by the  
18     agreement.

19      (c) Agreements between a gaming facility licensee and its employees  
20     which provide for gaming employee or casino key employee profit sharing  
21     shall be lawful if the agreement is in writing and filed with the  
22     commission prior to its effective date. Such agreements may be reviewed  
23     by the commission.

24      (d) Agreements to lease an approved gaming facility or the land there-  
25     under and agreements for the complete management of all gaming oper-  
26     ations in a gaming facility shall not be subject to the provisions of  
27     this subdivision.

1       (e) Agreements which provide for percentage charges between the gaming  
2 facility licensee and a holding company or intermediary company of the  
3 gaming facility licensee shall be in writing and filed with the commis-  
4 sion but shall not be subject to the provisions of this subdivision.

5       (f) Written agreements relating to the operation of multi-casino or  
6 multi-state progressive slot machine systems between one or more gaming  
7 facility licensees and a licensed casino vendor enterprise or an eligi-  
8 ble applicant for such license, which provide for an interest, percent-  
9 age or share of the gaming facility licensee's revenues, profits or  
10 earnings from the operation of such multi-casino or multi-state progres-  
11 sive slot machines to be paid to the casino vendor enterprise licensee  
12 or applicant shall not be subject to the provisions of this subdivision  
13 if the agreements are filed with and approved by the commission.

14       2. Each gaming facility applicant or licensee shall maintain, in  
15 accordance with the rules of the commission, a record of each written or  
16 unwritten agreement regarding the realty, construction, maintenance, or  
17 business of a proposed or existing gaming facility or related facility.  
18 The foregoing obligation shall apply regardless of whether the gaming  
19 facility applicant or licensee is a party to the agreement. Any such  
20 agreement may be reviewed by the commission on the basis of the reason-  
21 ableness of its terms, including the terms of compensation, and of the  
22 qualifications of the owners, officers, employees, and directors of any  
23 enterprise involved in the agreement, which qualifications shall be  
24 reviewed according to the standards enumerated in section one thousand  
25 three hundred twenty-three of this article. If the commission disap-  
26 proves such an agreement or the owners, officers, employees, or direc-  
27 tors of any enterprise involved therein, the commission may require its  
28 termination.

1     Every agreement required to be maintained, and every related agreement  
2     the performance of which is dependent upon the performance of any such  
3     agreement, shall be deemed to include a provision to the effect that, if  
4     the commission shall require termination of an agreement, such termi-  
5     nation shall occur without liability on the part of the gaming facility  
6     applicant or licensee or any qualified party to the agreement or any  
7     related agreement. Failure expressly to include such a provision in the  
8     agreement shall not constitute a defense in any action brought to termi-  
9     nate the agreement. If the agreement is not maintained or presented to  
10    the commission in accordance with commission regulations, or the disap-  
11    proved agreement is not terminated, the commission may pursue any remedy  
12    or combination of remedies provided in this article.

13    For the purposes of this subdivision, "gaming facility applicant"  
14    includes any person required to hold a gaming facility license who has  
15    applied to the commission for a gaming facility license or any approval  
16    required.

17    3. Nothing in this article shall be deemed to permit the transfer of  
18    any license, or any interest in any license, or any certificate of  
19    compliance or any commitment or reservation without the approval of the  
20    commission.

21    § 1342. Required exclusion of certain persons.    1.    The commission  
22    shall, by regulation, provide for the establishment of a list of persons  
23    who are to be excluded or ejected from any licensed gaming facility.  
24    Such provisions shall define the standards for exclusion, and shall  
25    include standards relating to persons:

26    (a) Who are career or professional offenders as defined by regulations  
27    promulgated hereunder; or

1       (b) Who have been convicted of a criminal offense under the laws of  
2 any state or of the United States, which is punishable by more than  
3 twelve months in prison, or any crime or offense involving moral turpi-  
4 tude.

5       The commission shall promulgate definitions establishing those catego-  
6 ries of persons who shall be excluded pursuant to this section, includ-  
7 ing cheats and persons whose privileges for licensure or registration  
8 have been revoked.

9       2. Any enumerated class listed in subdivision one of section two  
10 hundred ninety-six of the human rights law shall not be a reason for  
11 placing the name of any person upon such list.

12       3. The commission may impose sanctions upon a licensed gaming facility  
13 or individual licensee or registrant in accordance with the provisions  
14 of this article if such gaming facility or individual licensee or regis-  
15 trant knowingly fails to exclude or eject from the premises of any  
16 licensed gaming facility any person placed by the commission on the list  
17 of persons to be excluded or ejected.

18       4. Any list compiled by the commission of persons to be excluded or  
19 ejected shall not be deemed an all-inclusive list, and licensed gaming  
20 facilities shall have a duty to keep from their premises persons known  
21 to them to be within the classifications declared in subdivisions one  
22 and two of this section and the regulations promulgated thereunder, or  
23 known to them to be persons whose presence in a licensed gaming facility  
24 would be inimical to the interest of the state or of licensed gaming  
25 therein, or both, as defined in standards established by the commission.

26       5. Prior to placing the name of any person on a list pursuant to this  
27 section, the commission shall serve notice of such fact to such person  
28 by personal service, by certified mail at the last known address of such

1 person, or by publication daily for one week in a newspaper of general  
2 circulation and upon the commission website.

3 6. Within thirty days after service of the petition in accordance with  
4 subdivision five of this section, the person named for exclusion or  
5 ejection may demand a hearing before the executive director or the exec-  
6 tive director's designee, at which hearing the executive director or  
7 the director's designee shall have the affirmative obligation to demon-  
8 strate by substantial evidence that the person named for exclusion or  
9 ejection satisfies the criteria for exclusion established by this  
10 section and the applicable regulations. Failure to demand such a hearing  
11 within thirty days after service shall be deemed an admission of all  
12 matters and facts alleged in the executive director's petition and shall  
13 preclude a person from having an administrative hearing, but shall in no  
14 way affect his or her right to judicial review as provided herein.

15 7. The commission may make a preliminary placement on the list of a  
16 person named in a petition for exclusion or ejection pending completion  
17 of a hearing on the petition. The hearing on the application for prelimi-  
18 nary placement shall be a limited proceeding at which the commission  
19 shall have the affirmative obligation to demonstrate that there is a  
20 reasonable possibility that the person satisfies the criteria for exclu-  
21 sion established by this section and the applicable regulations. If a  
22 person has been placed on the list as a result of an application for  
23 preliminary placement, unless otherwise agreed by the director and the  
24 named person, a hearing on the petition for exclusion or ejection shall  
25 be initiated within thirty days after the receipt of a demand for such  
26 hearing or the date of preliminary placement on the list, whichever is  
27 later.

1       8. If, upon completion of the hearing on the petition for exclusion or  
2       ejection, the executive director determines that the person named there-  
3       in does not satisfy the criteria for exclusion established by this  
4       section and the applicable regulations, the executive director shall  
5       issue an order denying the petition. If the person named in the petition  
6       for exclusion or ejection had been placed on the list as a result of an  
7       application for preliminary placement, the executive director shall  
8       notify all gaming facility licensees of the person's removal from the  
9       list.

10      9. If, upon completion of a hearing on the petition for exclusion or  
11      ejection, the executive director determines that placement of the name  
12      of the person on the exclusion list is appropriate, the executive direc-  
13      tor shall make and enter an order to that effect, which order shall be  
14      served on all gaming facility licensees. Such order shall be subject to  
15      review by the commission in accordance with regulations promulgated  
16      thereunder, which final decision shall be subject to review by the  
17      supreme court in accordance with the rules of court.

18      § 1343. Exclusion, ejection of certain persons. 1. A gaming facility  
19      licensee may exclude or eject from its gaming facility any person who is  
20      known to it to have been convicted of a crime, disorderly persons  
21      offense, or petty disorderly persons offense committed in or on the  
22      premises of any gaming facility.

23      2. Nothing in this section or in any other law of this state shall  
24      limit the right of a gaming facility licensee to exercise its common law  
25      right to exclude or eject permanently from its gaming facility any  
26      person who disrupts the operations of its premises, threatens the secu-  
27      rity of its premises or its occupants, or is disorderly or intoxicated.

1       § 1344. List of persons self-excluded from gaming activities. 1. The  
2       commission shall provide by regulation for the establishment of a list  
3       of persons self-excluded from gaming activities at all licensed gaming  
4       facilities. Any person may request placement on the list of self-exclud-  
5       ed persons by acknowledging in a manner to be established by the commis-  
6       sion that the person is a problem gambler and by agreeing that, during  
7       any period of voluntary exclusion, the person may not collect any  
8       winnings or recover any losses resulting from any gaming activity at  
9       such gaming facilities.

10      2. The regulations of the commission shall establish procedures for  
11     placements on, and removals from, the list of self-excluded persons.  
12     Such regulations shall establish procedures for the transmittal to  
13     licensed gaming facilities of identifying information concerning self-  
14     excluded persons, and shall require licensed gaming facilities to estab-  
15     lish procedures designed, at a minimum, to remove self-excluded persons  
16     from targeted mailings or other forms of advertising or promotions and  
17     deny self-excluded persons access to credit, complimentaries, check  
18     cashing privileges, club programs, and other similar benefits.

19      3. A licensed gaming facility or employee thereof shall not be liable  
20     to any self-excluded person or to any other party in any judicial  
21     proceeding for any harm, monetary or otherwise, which may arise as a  
22     result of:

23       (a) the failure of a licensed gaming facility to withhold gaming priv-  
24       ileges from, or restore gaming privileges to, a self-excluded person; or  
25       (b) otherwise permitting a self-excluded person to engage in gaming  
26       activity in such licensed gaming facility while on the list of self-ex-  
27       cluded persons.

1       4. Notwithstanding any other law to the contrary, the commission's  
2       list of self-excluded persons shall not be open to public inspection.  
3       Nothing herein, however, shall be construed to prohibit a gaming facili-  
4       ty licensee from disclosing the identity of persons self-excluded pursu-  
5       ant to this section to affiliated gaming entities in this state or other  
6       jurisdictions for the limited purpose of assisting in the proper admin-  
7       istration of responsible gaming programs operated by such gaming affil-  
8       iated entities.

9       5. A licensed gaming facility or employee thereof shall not be liable  
10      to any self-excluded person or to any other party in any judicial  
11      proceeding for any harm, monetary or otherwise, which may arise as a  
12      result of disclosure or publication in any manner, other than a willful-  
13      ly unlawful disclosure or publication, of the identity of any self-ex-  
14      cluded person.

15      § 1345. Excluded person; forfeiture of winnings; other sanctions. 1.  
16      A person who is prohibited from gaming in a licensed gaming facility by  
17      any order of the executive director, commission or court of competent  
18      jurisdiction, including any person on the self-exclusion list pursuant  
19      to subdivision one of section one thousand three hundred forty-four of  
20      this title, shall not collect, in any manner or proceeding, any winnings  
21      or recover any losses arising as a result of any prohibited gaming  
22      activity.

23      2. For the purposes this section, any gaming activity in a licensed  
24      gaming facility which results in a prohibited person obtaining any money  
25      or thing of value from, or being owed any money or thing of value by,  
26      the gaming facility shall be considered, solely for purposes of this  
27      section, to be a fully executed gambling transaction.

1       3. In addition to any other penalty provided by law, any money or  
2       thing of value which has been obtained by, or is owed to, any prohibited  
3       person by a licensed gaming facility as a result of wagers made by a  
4       prohibited person shall be subject to forfeiture following notice to the  
5       prohibited person and opportunity to be heard. A licensed gaming facili-  
6       ty shall inform a prohibited person of the availability of such notice  
7       on the commission's website when ejecting the prohibited person and  
8       seizing any chips, vouchers or other representative of money owed by a  
9       gaming facility to the prohibited person as authorized by this subdivi-  
10      sion. All forfeited amounts shall be deposited into the commercial  
11      gaming revenue fund.

12      4. In any proceeding brought by the commission against a licensee or  
13      registrant for a willful violation of the commission's self-exclusion  
14      regulations, the commission may order, in addition to any other sanction  
15      authorized, the forfeiture of any money or thing of value obtained by  
16      the licensee or registrant from any self-excluded person. Any money or  
17      thing of value so forfeited shall be disposed of in the same manner as  
18      any money or thing of value forfeited pursuant to subdivision three of  
19      this section.

20      § 1346. Labor peace agreements for certain facilities. 1. As used in  
21      this section:

22      (a) "Gaming facility" means any gaming facility licensed pursuant to  
23      this article or a video lottery gaming facility as may be authorized by  
24      paragraph three of subdivision (a) of section one thousand six hundred  
25      seventeen-a of the tax law, as amended by section nineteen of the chap-  
26      ter of the laws of two thousand thirteen that added this section  
27      licensed by the commission. A gaming facility shall not include any  
28      horse racing, bingo or charitable games of chance, the state lottery for

1 education, or any gaming facility operating pursuant to the federal  
2 Indian Gaming Regulatory Act, 25 U.S.C. § 2710 et seq. A gaming facility  
3 shall include any hospitality operation at or related to the gaming  
4 facility.

5       (b) "Labor peace agreement" means an agreement enforceable under 29  
6 U.S.C. § 185(a) that, at a minimum, protects the state's proprietary  
7 interests by prohibiting labor organizations and members from engaging  
8 in picketing, work stoppages, boycotts, and any other economic interfer-  
9 ence with operation of the relevant gaming facility.

10      (c) "License" means any permit, license, franchise or allowance of the  
11 commission and shall include any franchisee or permittee.

12      (d) "Proprietary interest" means an economic and non-regulatory inter-  
13 est at risk in the financial success of the gaming facility that could  
14 be adversely affected by labor-management conflict, including but not  
15 limited to property interests, financial investments and revenue shar-  
16 ing.

17      2. The state legislature finds that the gaming industry constitutes a  
18 vital sector of New York's overall economy and that the state through  
19 its operation of lotteries and video lottery facilities and through its  
20 ownership of the properties utilized for horse racing by The New York  
21 Racing Association Inc. has a significant and ongoing economic and non-  
22 regulatory interest in the financial viability and competitiveness of  
23 the gaming industry. The state legislature further finds that the award  
24 or grant of a license by the commission to operate a gaming facility is  
25 a significant state action and that the commission must make prudent and  
26 efficient decisions to maximize the benefits and minimize the risks of  
27 gaming. The state legislature further recognizes that casino gaming  
28 industry integration can provide a vital economic engine to assist,

1 nurture, develop, and promote regional economic development, the state  
2 tourism industry and the growth of jobs in the state. Additionally, the  
3 state legislature also finds revenues derived directly by the state from  
4 such gaming activity will be shared from gross gaming receipts, after  
5 payout of prizes but prior to deductions for operational expenses.

6 Therefore, the state legislature finds that the state has a substan-  
7 tial and compelling proprietary interest in any license awarded for the  
8 operation of a gaming facility within the state.

9 3. The commission shall require any applicant for a gaming facility  
10 license who has not yet entered into a labor peace agreement to produce  
11 an affidavit stating it shall enter into a labor peace agreement with  
12 labor organizations that are actively engaged in representing or  
13 attempting to represent gaming or hospitality industry workers in the  
14 state. In order for the commission to issue a gaming facility license  
15 and for operations to commence, the applicant for a gaming facility  
16 license must produce documentation that it has entered into a labor  
17 peace agreement with each labor organization that is actively engaged in  
18 representing and attempting to represent gaming and hospitality industry  
19 workers in the state. The commission shall make the maintenance of such  
20 a labor peace agreement an ongoing material condition of licensure.

21 A license holder shall, as a condition of its license, ensure that  
22 operations at the gaming facility that are conducted by contractors,  
23 subcontractors, licensees, assignees, tenants or subtenants and that  
24 involve gaming or hospitality industry employees shall be done under a  
25 labor peace agreement containing the same provisions as specified above.

26 4. Construction for each capital project undertaken by a gaming facil-  
27 ity shall be deemed a "public work" to be performed in accordance with  
28 the provisions of article eight of the labor law, as well as subject to

1 section two hundred of the labor law and enforcement of prevailing wage  
2 requirements by the department of labor.

3 5. If otherwise applicable, capital projects undertaken by a gaming  
4 facility shall be subject to section one hundred thirty-five of the  
5 state finance law and section two hundred twenty-two of the labor law.

6 6. (a) For the purposes of this section, "project labor agreement"  
7 shall mean a pre-hire collective bargaining agreement between a gaming  
8 facility or contractor thereof and the N.Y.S. Building and Construction  
9 Trades Council and/or a subdivision thereof, determined by the commis-  
10 sion as representing the largest number of employees likely to work on  
11 the project, establishing the labor organization as the collective  
12 bargaining representative for all persons who will perform work on the  
13 project, and which provides that only contractors and subcontractors who  
14 sign a pre-negotiated agreement with the labor organization can perform  
15 project work.

16 (b) The commission shall require a gaming facility or contractor ther-  
17 eof awarded a contract, subcontract, lease, grant, bond, covenant or  
18 other agreement for a project to enter into a project labor agreement  
19 during and for the work involved with such project when such requirement  
20 is part of the gaming facility project, but only if the commission  
21 determines that the record supporting the decision to enter into such an  
22 agreement establishes that the interests of the state are best met by  
23 requiring a project labor agreement including: obtaining the best work  
24 at the lowest possible price; preventing favoritism, fraud and  
25 corruption; the impact of delay; the possibility of cost savings; and  
26 any local history of labor unrest.

27 (c) Any contract to which the gaming facility is a party, and any  
28 contract entered into by a third party acting in place of, on behalf of

1 and for the benefit of the gaming facility pursuant to any lease, permit  
2 or other agreement between such third party and the gaming facility, for  
3 the construction, reconstruction, demolition, excavation, rehabilita-  
4 tation, repair, renovation, alteration, or improvement, of a project  
5 undertaken pursuant to this chapter, shall be subject to all of the  
6 provisions of article eight of the labor law, including the enforcement  
7 of prevailing wage requirements by the fiscal officer as defined in  
8 paragraph e of subdivision five of section two hundred twenty of the  
9 labor law to the same extent as a contract of the state, and shall be  
10 deemed public work for purposes of such article.

11     (d) Every contract entered into by the gaming facility for a project  
12     shall contain a provision that the contractor shall furnish a labor and  
13     material bond guaranteeing prompt payment of moneys that are due to all  
14     persons furnishing labor and materials pursuant to the requirements of  
15     any contracts for a project undertaken pursuant to this section and a  
16     performance bond for the faithful performance of the project, which  
17     shall conform to the provisions of section one hundred three-f of the  
18     general municipal law, and that a copy of such performance and payment  
19     bonds shall be kept by the commission and shall be open to public  
20     inspection.

21     (e) For the purposes of article fifteen-A of the executive law, any  
22     gaming facility entering into a contract for a project authorized pursu-  
23     ant to this section shall be deemed a state agency as that term is  
24     defined in such article and such contracts shall be deemed state  
25     contracts within the meaning of that term as set forth in such article.

26     (f) Whenever a gaming facility enters into a contract, subcontract,  
27     lease, grant, bond, covenant or other agreement for construction, recon-  
28     struction, demolition, excavation, rehabilitation, repair, renovation,

1 alteration, or improvement with respect to each project undertaken  
2 pursuant to this chapter, the commission shall consider the financial  
3 and organizational capacity of contractors and subcontractors in  
4 relation to the magnitude of work they may perform, the record of  
5 performance of contractors and subcontractors on previous work, the  
6 record of contractors and subcontractors in complying with existing  
7 labor standards and maintaining harmonious labor relations, and the  
8 commitment of contractors to work with minority and women-owned business  
9 enterprises pursuant to article fifteen-A of the executive law through  
10 partnerships, joint ventures or subcontractor relationships.

11       (g) The commission shall further require, on any contract for  
12 construction in excess of three million dollars with respect to any  
13 contract for construction, reconstruction, demolition, excavation, reha-  
14 bilitation, repair, renovation, alteration, or improvement that each  
15 contractor and subcontractor shall participate in apprentice training  
16 programs in the trades of work it employs that have been approved by the  
17 department of labor for not less than three years. The commission shall  
18 further require that each contractor and subcontractor shall have gradu-  
19 ated at least one apprentice in the last three years and shall have at  
20 least one apprentice currently enrolled in such training program. Addi-  
21 tionally it must be demonstrated that the program has made significant  
22 efforts to attract and retain minority apprentices, as determined by  
23 affirmative action goals established for such programs by the department  
24 of labor.

25       § 1347. Prohibition of political contributions from gaming licensees  
26 and applicants. 1. The state legislature has a compelling interest in  
27 protecting the integrity of both the electoral process and the legisla-  
28 tive process by preventing corruption and the appearance of corruption

1 which may arise through permitting certain political campaign contrib-  
2 utions by certain persons involved in the gaming industry and regulated  
3 by the state. Unlike most other regulated industries, gaming is espe-  
4 cially susceptible to corruption and potential criminal influence. It is  
5 imperative to eliminate any potential corrupt influence in the gaming  
6 industry and the electoral process.

7 Banning political campaign contributions by certain persons subject to  
8 this section to state officeholders and candidates for such offices and  
9 to county and municipal officeholders and candidates for such offices in  
10 counties and municipalities that receive direct financial benefits from  
11 gaming activities is necessary to prevent corruption and the appearance  
12 of corruption that may arise when political campaign contributions and  
13 gaming that is regulated by the state and that confers benefits on coun-  
14 ties and municipalities are intermingled.

15 2. As used in this section:

16 (a) "Affiliated entity" means (1) any corporate parent and operating  
17 subsidiary of the business entity applying for or holding a license, (2)  
18 each operating subsidiary of the corporate parent of the business entity  
19 applying for or holding a license, (3) any organization recognized by  
20 the United States Internal Revenue Service as a tax-exempt organization  
21 described in Section 501(c) of the Internal Revenue Code of 1986 (or any  
22 successor provision of federal tax law) established by one or more busi-  
23 ness entities seeking or holding a license, any affiliated entity of  
24 such business entity, or any affiliated person of such business entity,  
25 and (4) any political committee for which the business entity applying  
26 for or holding a license, or any 501(c) organization described in  
27 subparagraph three of this paragraph related to that business entity.

28 For purposes of subparagraph four of this paragraph, the funding of all

1   business entities applying for or holding a license shall be aggregated  
2   in determining whether such political committee is an affiliated entity.

3    (b) "Affiliated person" means (1) any person with any ownership inter-  
4    est or distributive share in excess of seven and one-half percent of any  
5    business entity applying for or holding a license, (2) executive employ-  
6    ees of any such business entity, (3) any person designated as a key  
7    person pursuant to this article, and (4) the spouse of the persons  
8    described in subparagraphs one through three of this paragraph.

9    (c) "Business entity" means any entity doing business for profit,  
10   whether organized as a corporation, partnership, sole proprietorship,  
11   limited liability company, or partnership or otherwise.

12    (d) "Contribution" means a contribution as defined in subdivision nine  
13    of section 14-100 of the election law.

14    (e) "Declared candidate" means a person who has filed a statement of  
15    candidacy and petition for nomination or election in the principal  
16    office of the state board of elections, or in the office of the appro-  
17    priate election authority for any host municipality or county in which a  
18    gaming facility is located or proposed to be located.

19    (f) "Executive employee" means (1) any person who is an officer or  
20    director or who fulfills duties equivalent to those of an officer or  
21    director of a business entity applying for or holding a license and (2)  
22    any employee of such business entity who is required to register under  
23    article one-A of the legislative law.

24    (g) "License" means the gaming license issued pursuant to this arti-  
25    cle.

26    (h) "Officeholder" means the governor, lieutenant governor, attorney  
27    general, comptroller, member of the assembly or senate, or any office-

1 holder in any host municipality or county in which a gaming facility is  
2 located or proposed to be located.

3 3. (a) Any person or business entity applying for or holding a  
4 license, any affiliated entities or persons of such business entity, and  
5 any entities or persons soliciting a contribution or causing a contrib-  
6 ution to be made on behalf of such person or business entity, are  
7 prohibited from making any contribution to any officeholder or declared  
8 candidate or any political committee affiliated with any officeholder or  
9 declared candidate.

10 (b) This prohibition shall commence upon filing of an application for  
11 a license and shall continue for a period of two years after termi-  
12 nation, suspension or revocation of the license.

13 (c) The commission shall have authority to suspend, revoke or restrict  
14 the license and to impose civil penalties of up to one hundred thousand  
15 dollars for each violation of this subdivision.

16 (d) A notice of each such violation and the penalty imposed shall be  
17 published on the commission's internet website and in the State Regis-  
18 ter. Payments received by the state pursuant to this subdivision shall  
19 be deposited into the commercial gaming revenue fund.

20 (e) Any officeholder or declared candidate or any political committee  
21 affiliated with any officeholder or declared candidate that has received  
22 a contribution in violation of this subdivision shall pay an amount  
23 equal to the value of the contribution to the state no more than thirty  
24 days after notice of the violation concerning the contribution appears  
25 in the State Register. Payments received by the state pursuant to this  
26 subdivision shall be deposited into the commercial gaming revenue fund.

27 4. The commission shall post on its internet website a list of all  
28 persons, business entities, and affiliated entities prohibited from

1 making contributions to any officeholder or declared candidate political  
2 committee pursuant to subdivision three of this section, which list  
3 shall be updated and published, at a minimum, every six months.  
4 Any person, business entity, or affiliated entity prohibited from  
5 making contributions to any officeholder or declared candidate political  
6 committee pursuant to subdivision three of this section shall notify the  
7 commission within seven days after discovering any necessary change or  
8 addition to the information relating to that person, business entity, or  
9 affiliated entity contained in the list. An individual who acts in good  
10 faith and in reliance on any information contained in the list shall not  
11 be subject to any penalties or liability imposed for a violation of this  
12 section.

13 5. If any provision of this section is held invalid or its application  
14 to any person or circumstance is held invalid, the invalidity of that  
15 provision or application does not affect the other provisions or appli-  
16 cations of this section that can be given effect without the invalid  
17 application or provision.

18 TITLE 6

19 TAXATION AND FEES

20 Section 1348. Machine and table fees.

21 1349. Regulatory investigatory fees.

22 1350. Additional regulatory costs.

23 1351. Tax on gross gaming revenues; permissive supplemental fee.

24 1352. Commercial gaming revenue fund.

25 1353. Determination of tax liability.

26 1354. Unclaimed funds.

27 1355. Distributions to the racing industry.

1       § 1348. Machine and table fees. In addition to any other tax or fee  
2 imposed by this article, there shall be imposed an annual license fee of  
3 five hundred dollars for each slot machine and table approved by the  
4 commission for use by a gaming licensee at a gaming facility; provided,  
5 however, that not sooner than five years after award of an original  
6 gaming license, the commission may annually adjust the fee for  
7 inflation. The fee shall be imposed as of July first of each year for  
8 all approved slot machines and tables on that date and shall be assessed  
9 on a pro rata basis for any slot machine or table approved for use ther-  
10 eafter.

11      Such assessed fees shall be deposited into the commercial gaming  
12 revenue fund established pursuant to section one thousand three hundred  
13 fifty-two of this article.

14       § 1349. Regulatory investigatory fees. The commission shall establish  
15 fees for any investigation into a violation of this article or regu-  
16 lation promulgated hereunder by a gaming licensee to be paid by the  
17 gaming licensee including, but not limited to, billable hours by commis-  
18 sion staff involved in the investigation and the costs of services,  
19 equipment or other expenses that are incurred by the commission during  
20 the investigation.

21       § 1350. Additional regulatory costs. 1. Any remaining costs of the  
22 commission necessary to maintain regulatory control over gaming facili-  
23 ties that are not covered by the fees set forth in section one thousand  
24 three hundred forty-nine of this title; any other fees assessed under  
25 this article; or any other designated sources of funding, shall be  
26 assessed annually on gaming licensees under this article in proportion  
27 to the number of gaming positions at each gaming facility. Each gaming

1 licensee shall pay the amount assessed against it within thirty days  
2 after the date of the notice of assessment from the commission.

3 2. If the fees collected in section one thousand three hundred forty-  
4 nine of this title exceed the cost required to maintain regulatory  
5 control, the surplus funds shall be credited in proportional shares  
6 against each gaming licensee's next assessment.

7 § 1351. Tax on gross gaming revenues; permissive supplemental fee.  
8 For a gaming facility in zone two, there is hereby imposed a tax on  
9 gross gaming revenues in the amount of twenty-five percent. Should a  
10 licensee have agreed within its application to supplement the tax with a  
11 binding supplemental fee payment exceeding the aforementioned tax rate,  
12 such tax and supplemental fee shall apply.

13 § 1352. Commercial gaming revenue fund. 1. The commission shall pay  
14 into an account, to be known as the commercial gaming revenue fund as  
15 established pursuant to section ninety-seven-nnnn of the state finance  
16 law, under the joint custody of the comptroller and the commissioner of  
17 taxation and finance, all taxes and fees imposed by this article; any  
18 interest and penalties imposed by the commission relating to those  
19 taxes; the appropriate percentage of the value of expired gaming related  
20 obligations; all penalties levied and collected by the commission; and  
21 the appropriate funds, cash or prizes forfeited from gambling activity.

22 2. The commission shall require at least monthly deposits by the  
23 licensee of any payments pursuant to section one thousand three hundred  
24 fifty-one of this article, at such times, under such conditions, and in  
25 such depositories as shall be prescribed by the state comptroller. The  
26 deposits shall be deposited to the credit of the commercial gaming  
27 revenue fund as established by section ninety-seven-nnnn of the state  
28 finance law. The commission may require a monthly report and reconcil-

1 iation statement to be filed with it on or before the tenth day of each  
2 month, with respect to gross revenues and deposits received and made,  
3 respectively, during the preceding month.

4 § 1353. Determination of tax liability. The commission may perform  
5 audits of the books and records of a gaming facility licensee, at such  
6 times and intervals as it deems appropriate, for the purpose of deter-  
7 mining the sufficiency of tax or fee payments. If a return or deposit  
8 required with regard to obligations imposed is not filed or paid, or if  
9 a return or deposit when filed or paid is determined by the commission  
10 to be incorrect or insufficient with or without an audit, the amount of  
11 tax, fee or deposit due shall be determined by the commission. Notice  
12 of such determination shall be given to the licensee liable for the  
13 payment of the tax or fee or deposit. Such determination shall finally  
14 and irrevocably fix the tax or fee unless the person against whom it is  
15 assessed, within thirty days after receiving notice of such determi-  
16 nation, shall apply to the commission for a hearing in accordance with  
17 the regulations of the commission.

18 § 1354. Unclaimed funds. Unclaimed funds, cash and prizes shall be  
19 retained by the gaming facility licensee for the person entitled to the  
20 funds, cash or prize for one year after the game in which the funds,  
21 cash or prize was won. If no claim is made for the funds, cash or prize  
22 within one year, the funds, cash or equivalent cash value of the prize  
23 shall be deposited in the commercial gaming revenue fund.

24 § 1355. Distributions to the racing industry. 1. If an applicant  
25 possesses a pari-mutuel wagering franchise or license awarded pursuant  
26 to article two or three of this chapter is issued a gaming facility  
27 license pursuant to this article, the licensee shall:

1       (a) Maintain payments made from video lottery gaming operations to the  
2 relevant horsemen and breeders organizations at the same dollar level  
3 realized in two thousand twelve, to be adjusted annually pursuant to  
4 changes in the consumer price index for all urban consumers, as  
5 published annually by the United States department of labor bureau of  
6 labor statistics;

7       (b) All racetracks locations awarded a gaming facility license shall  
8 maintain racing activity and race dates pursuant to articles two and  
9 three of this chapter.

10      2. If an applicant that does not possess either a pari-mutuel wagering  
11 license or franchise awarded pursuant to article two or three of this  
12 chapter is issued a gaming facility license pursuant to this article,  
13 the licensee shall devote five percent of its net revenues from slot  
14 machines to support racing activity in the following manner:

15      (a) three percent shall be dedicated to the nearest licensed race-  
16 track, to be equally divided between the horsemen, for the support of  
17 purses, and the racetrack;

18      (b) one and one-half percent shall be dedicated to the next closest  
19 racetrack to be equally divided between the horsemen, for the support of  
20 purses, and the racetrack; and

21      (c) one-half of one percent shall be dedicated to and equally divided  
22 between the standardbred and thoroughbred breeding funds.

23      However, where either the nearest racetrack or next closest racetrack  
24 itself holds a license issued pursuant to this article, all moneys shall  
25 be dedicated to the racetracks' horsemen for the support of purses.

26      For purposes of this subdivision, the racetrack of the franchised  
27 corporation shall mean the racetrack at which the franchised corporation  
28 conducts the plurality of its race dates.

1                   TITLE 7

2                   MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

3   Section 1356. Declarations.

4   1357. Definitions.

5   1358. Minority, women's business contracts.

6   1359. Penalties for violations.

7   1360. List of certified enterprises.

8   1361. Intentionally omitted.

9   § 1356. Declarations. The state declares that the opportunity for  
10   maximum feasible participation of minority and women's business enter-  
11   prises in the casino industry is essential if social and economic parity  
12   is to be obtained by minority and women businesses.

13   § 1357. Definitions. As used in this article "gaming facility licen-

14   see" means any entity which holds or is an applicant for a gaming facil-

15   ity license pursuant to this article.

16   Terms used in this section that are not defined herein have such mean-  
17   ing as ascribed to such term in section three hundred ten of the execu-  
18   tive law.

19   § 1358. Minority, women's business contracts. 1. Notwithstanding the  
20   provisions of any law, rule or regulation to the contrary, every gaming  
21   facility licensee shall establish goals pursuant to section three  
22   hundred thirteen of the executive law. For purposes of article fifteen-A  
23   of the executive law, any gaming facility licensee entering into a  
24   contract shall be deemed a state agency as that term is defined in such  
25   article and such contract shall be deemed a state contract as within the  
26   meaning of that term as set forth in such article.

2. A gaming facility licensee shall make a good faith effort to meet  
the requirements of this section and shall annually demonstrate to the  
commission that such an effort was made.

4       § 1359. Penalties for violations. If the commission determines that  
5       the requirements relating to expenditures and assignments to minority  
6       and women-owned business enterprises have not been met by a licensee,  
7       the commission may suspend or revoke the gaming facility license or fine  
8       or impose appropriate conditions on the licensee, to ensure that the  
9       requirements for expenditures and assignments to minority and women-  
10      owned business enterprises are met; except that if a determination is  
11      made by the commission of the division of minority and women's business  
12      development that a gaming facility licensee has failed to demonstrate  
13      compliance with the provisions of article fifteen-A of the executive  
14      law, a gaming facility licensee will have ninety days from the date of  
15      the determination of noncompliance within which to come into compliance.

16       § 1360. List of certified enterprises. The empire state development  
17 corporation maintains the directory of certified minority and women-  
18 owned business enterprises. Such directory shall be made available to  
19 gaming facility licensees.

20      § 1361. Intentionally omitted.

TITLE 8

## PROBLEM GAMBLING

## 23 Section 1362. Prevention and outreach efforts.

## 1363. Advertising restrictions.

25       § 1362. Prevention and outreach efforts.     1. Each gaming facility  
26       licensee, management company, and holding company involved in the appli-  
27       cation and ownership or management of a gaming facility shall provide to  
28       the commission, as applicable, an applicant's problem gambling plan. An

1   applicant's problem gambling plan shall be approved by the commission  
2   before the commission issues or renews a license. Each plan shall at  
3   minimum include the following:

4    (a) The goals of the plan and procedures and timetables to implement  
5    the plan;

6    (b) The identification of the individual who will be responsible for  
7    the implementation and maintenance of the plan;

8    (c) Policies and procedures including the following:

9      (1) The commitment of the applicant and the gaming facility licensee  
10     to train appropriate employees;

11     (2) The duties and responsibilities of the employees designated to  
12     implement or participate in the plan;

13     (3) The responsibility of patrons with respect to responsible gambl-  
14     ing;

15     (4) Procedures for compliance with the voluntary exclusion program;

16     (5) Procedures to identify patrons and employees with suspected or  
17     known problem gambling behavior, including procedures specific to loyal-  
18     ty and other rewards and marketing programs;

19     (6) Procedures for providing information to individuals regarding the  
20     voluntary exclusion program and community, public and private treatment  
21     services, gamblers anonymous programs and similar treatment or addiction  
22     therapy programs designed to prevent, treat, or monitor problem gamblers  
23     and to counsel family members;

24     (7) Procedures for responding to patron and employee requests for  
25     information regarding the voluntary exclusion program and community,  
26     public and private treatment services, gamblers anonymous programs and  
27     similar treatment or addiction therapy programs designed to prevent,

1   treat, or monitor compulsive and problem gamblers and to counsel family  
2   members;

3    (8) The provision of printed material to educate patrons and employees  
4    about problem gambling and to inform them about the voluntary exclusion  
5    program and treatment services available to problem gamblers and their  
6    families. The applicant shall provide examples of the materials to be  
7    used as part of its plan, including, brochures and other printed materi-  
8    al and a description of how the material will be disseminated;

9    (9) Advertising and other marketing and outreach to educate the gener-  
10   al public about the voluntary exclusion program and problem gambling;

11    (10) An employee training program, including training materials to be  
12    utilized and a plan for periodic reinforcement training and a certif-  
13    ication process established by the applicant to verify that each employ-  
14    ee has completed the training required by the plan;

15    (11) Procedures to prevent underage gambling;

16    (12) Procedures to prevent patrons impaired by drugs or alcohol, or  
17    both, from gambling; and

18    (13) The plan for posting signs within the gaming facility, containing  
19    information on gambling treatment and on the voluntary exclusion  
20    program. The applicant shall provide examples of the language and graph-  
21    ics to be used on the signs as part of its plan;

22    (d) A list of community, public and private treatment services,  
23    gamblers anonymous programs and similar treatment or addiction therapy  
24    programs designed to prevent, treat, or monitor problem gamblers and to  
25    counsel family members; and

26    (e) Any other information, documents, and policies and procedures that  
27    the commission requires.

1       2. Each applicant or gaming facility licensee shall submit any amend-  
2       ments to the problem gambling plan to the commission for review and  
3       approval before implementing the amendments.

4       3. Each gaming facility licensee shall submit an annual summary of its  
5       problem gambling plan to the commission.

6       4. Each gaming facility licensee shall submit quarterly updates and an  
7       annual report to the commission of its adherence to the plans and goals  
8       submitted under this section.

9       § 1363. Advertising restrictions. 1. As used in this section:

10      (a) "advertisement" shall mean any notice or communication to the  
11      public or any information concerning the gaming-related business of a  
12      gaming facility licensee or applicant through broadcasting, publication  
13      or any other means of dissemination, including electronic dissemination.  
14      Promotional activities are considered advertisements for purposes of  
15      this section.

16      (b) "direct advertisement" shall mean any advertisement as described  
17      in paragraph (a) of this subdivision that is disseminated to a specific  
18      individual or individuals.

19      2. Advertising shall be based upon fact, and shall not be false,  
20      deceptive or misleading, and no advertising by or on behalf of a gaming  
21      facility licensee shall:

22      (a) Use any type, size, location, lighting, illustration, graphic  
23      depiction or color resulting in the obscuring of any material fact;

24      (b) Fail to clearly and conspicuously specify and state any material  
25      conditions or limiting factors;

26      (c) Depict any person under the age of twenty-one engaging in gaming  
27      and related activities; or

1       (d) Fail to designate and state the name and location of the gaming  
2 facility conducting the advertisement. The location of the gaming facil-  
3 ity need not be included on billboards within thirty miles of the gaming  
4 facility.

5       3. Each advertisement shall, clearly and conspicuously, state a prob-  
6 lem gambling hotline number.

7       4. Each direct advertisement shall, clearly and conspicuously,  
8 describe a method or methods by which an individual may designate that  
9 the individual does not wish to receive any future direct advertisement.

10      (a) The described method must be by at least two of the following:

11       (1) Telephone;

12       (2) Regular U.S. mail; or

13       (3) Electronic mail.

14      (b) Upon receipt of an individual's request to discontinue receipt of  
15 future advertisement, a gaming facility licensee or applicant shall  
16 block the individual in the gaming facility licensee's database so as to  
17 prevent the individual from receiving future direct advertisements with-  
18 in fifteen days of receipt of the request.

19      5. Each gaming facility licensee or applicant shall provide to the  
20 commission at its main office a complete and accurate copy of all adver-  
21 tisements within five business days of the advertisement's public  
22 dissemination. Gaming facility licensees or applicants shall discontinue  
23 the public dissemination upon receipt of notice from the commission to  
24 discontinue an advertisement.

25      6. A gaming facility licensee or applicant shall maintain a complete  
26 record of all advertisements for a period of at least two years.

27      Records shall be made available to the commission upon request.

1                           TITLE 9

2                           MISCELLANEOUS PROVISIONS

3   Section 1364. Smoking prohibited.

4       1365. Conservatorship.

5       1366. Zoning.

6       1367. Sports wagering.

7   § 1364. Smoking prohibited. Smoking shall not be permitted, and no  
8   person shall smoke in the indoor areas of facilities licensed pursuant  
9   to this article, except that the provisions of section one thousand  
10   three hundred ninety-nine-q of the public health law shall be applicable  
11   to facilities licensed pursuant to this article.

12   § 1365. Conservatorship. 1. Upon revocation or suspension of a gaming  
13   facility license or upon the failure or refusal to renew a gaming facil-  
14   ity license, the commission may appoint a conservator to temporarily  
15   manage and operate the business of the gaming licensee relating to the  
16   gaming facility. Such conservator shall be a person of similar experi-  
17   ence in the field of gaming management and, in the case of replacing a  
18   gaming facility licensee, shall have experience operating a gaming  
19   facility of similar caliber in another jurisdiction, and shall be in  
20   good standing in all jurisdictions in which the conservator operates a  
21   gaming facility. Upon appointment, a conservator shall agree to all  
22   licensing provisions of the former gaming licensee.

23   2. A conservator shall, before assuming, managerial or operational  
24   duties, execute and file a bond for the faithful performance of its  
25   duties payable to the commission with such surety and in such form and  
26   amount as the commission shall approve.

27   3. The commission shall require that the former or suspended gaming  
28   licensee purchase liability insurance, in an amount determined by the

1 commission, to protect a conservator from liability for any acts or  
2 omissions of the conservator during the conservator's appointment which  
3 are reasonably related to and within the scope of the conservator's  
4 duties.

5 4. During the period of temporary management of the gaming facility,  
6 the commission shall initiate proceedings under this article to award a  
7 new gaming facility license to a qualified applicant whose gaming facil-  
8 ity shall be located at the site of the preexisting gaming facility.

9 5. An applicant for a new gaming facility license shall be qualified  
10 for licensure under this article; provided, however, that the commission  
11 shall determine an appropriate level of investment by an applicant into  
12 the preexisting gaming facility.

13 6. Upon award of a new gaming facility license, the new gaming facili-  
14 ty licensee shall pay the original licensing fee required under this  
15 article.

16 § 1366. Zoning. Notwithstanding any inconsistent provision of law,  
17 gaming authorized at a location pursuant to this article shall be deemed  
18 an approved activity for such location under the relevant city, county,  
19 town, or village land use or zoning ordinances, rules, or regulations.

20 § 1367. Sports wagering. 1. As used in this section:

21 (a) "Casino" means a licensed gaming facility at which gambling is  
22 conducted pursuant to the provisions of this article;

23 (b) "Commission" means the commission established pursuant to section  
24 one hundred two of this chapter;

25 (c) "Collegiate sport or athletic event" means a sport or athletic  
26 event offered or sponsored by or played in connection with a public or  
27 private institution that offers educational services beyond the second-  
28 ary level;

1       (d) "Operator" means a casino which has elected to operate a sports  
2       pool;

3       (e) "Professional sport or athletic event" means an event at which two  
4       or more persons participate in sports or athletic events and receive  
5       compensation in excess of actual expenses for their participation in  
6       such event;

7       (f) "Prohibited sports event" means any collegiate sport or athletic  
8       event that takes place in New York or a sport or athletic event in which  
9       any New York college team participates regardless of where the event  
10      takes place;

11      (g) "Sports event" means any professional sport or athletic event and  
12      any collegiate sport or athletic event, except a prohibited sports  
13      event;

14      (h) "Sports pool" means the business of accepting wagers on any sports  
15      event by any system or method of wagering; and

16      (i) "Sports wagering lounge" means an area wherein a sports pool is  
17      operated.

18      2. No gaming facility may conduct sports wagering until such time as  
19      there has been a change in federal law authorizing such or upon a ruling  
20      of a court of competent jurisdiction that such activity is lawful.

21      3. (a) In addition to authorized gaming activities, a licensed gaming  
22      facility may when authorized by subdivision two of this section operate  
23      a sports pool upon the approval of the commission and in accordance with  
24      the provisions of this section and applicable regulations promulgated  
25      pursuant to this article. The commission shall hear and decide promptly  
26      and in reasonable order all applications for a license to operate a  
27      sports pool, shall have the general responsibility for the implementa-  
28      tion of this section and shall have all other duties specified in this

1 section with regard to the operation of a sports pool. The license to  
2 operate a sports pool shall be in addition to any other license required  
3 to be issued to operate a gaming facility. No license to operate a  
4 sports pool shall be issued by the commission to any entity unless it  
5 has established its financial stability, integrity and responsibility  
6 and its good character, honesty and integrity.

7 No later than five years after the date of the issuance of a license  
8 and every five years thereafter or within such lesser periods as the  
9 commission may direct, a licensee shall submit to the commission such  
10 documentation or information as the commission may by regulation  
11 require, to demonstrate to the satisfaction of the executive director of  
12 the commission that the licensee continues to meet the requirements of  
13 the law and regulations.

14 (b) A sports pool shall be operated in a sports wagering lounge  
15 located at a casino. The lounge shall conform to all requirements  
16 concerning square footage, design, equipment, security measures and  
17 related matters which the commission shall by regulation prescribe.

18 (c) The operator of a sports pool shall establish or display the odds  
19 at which wagers may be placed on sports events.

20 (d) An operator shall accept wagers on sports events only from persons  
21 physically present in the sports wagering lounge. A person placing a  
22 wager shall be at least twenty-one years of age.

23 (e) An operator shall not admit into the sports wagering lounge, or  
24 accept wagers from, any person whose name appears on the exclusion list.

25 (f) The holder of a license to operate a sports pool may contract with  
26 an entity to conduct that operation, in accordance with the regulations  
27 of the commission. That entity shall obtain a license as a casino vendor  
28 enterprise prior to the execution of any such contract, and such license

1 shall be issued pursuant to the provisions of section one thousand three  
2 hundred twenty-seven of this article and in accordance with the regu-  
3 lations promulgated by the commission.

4 (g) If any provision of this article or its application to any person  
5 or circumstance is held invalid, the invalidity shall not affect other  
6 provisions or applications of this article which can be given effect  
7 without the invalid provision or application, and to this end the  
8 provisions of this article are severable.

9 4. (a) All persons employed directly in wagering-related activities  
10 conducted within a sports wagering lounge shall be licensed as a casino  
11 key employee or registered as a gaming employee, as determined by the  
12 commission. All other employees who are working in the sports wagering  
13 lounge may be required to be registered, if appropriate, in accordance  
14 with regulations of the commission.

15 (b) Each operator of a sports pool shall designate one or more casino  
16 key employees who shall be responsible for the operation of the sports  
17 pool. At least one such casino key employee shall be on the premises  
18 whenever sports wagering is conducted.

19 5. Except as otherwise provided by this article, the commission shall  
20 have the authority to regulate sports pools and the conduct of sports  
21 wagering under this article to the same extent that the commission regu-  
22 lates other gaming. No casino shall be authorized to operate a sports  
23 pool unless it has produced information, documentation, and assurances  
24 concerning its financial background and resources, including cash  
25 reserves, that are sufficient to demonstrate that it has the financial  
26 stability, integrity, and responsibility to operate a sports pool. In  
27 developing rules and regulations applicable to sports wagering, the  
28 commission shall examine the regulations implemented in other states

1 where sports wagering is conducted and shall, as far as practicable,  
2 adopt a similar regulatory framework. The commission shall promulgate  
3 regulations necessary to carry out the provisions of this section,  
4 including, but not limited to, regulations governing the:

5     (a) amount of cash reserves to be maintained by operators to cover  
6 winning wagers;

7     (b) acceptance of wagers on a series of sports events;

8     (c) maximum wagers which may be accepted by an operator from any one  
9 patron on any one sports event;

10    (d) type of wagering tickets which may be used;

11    (e) method of issuing tickets;

12    (f) method of accounting to be used by operators;

13    (g) types of records which shall be kept;

14    (h) use of credit and checks by patrons;

15    (i) type of system for wagering; and

16    (j) protections for a person placing a wager.

17       6. Each operator shall adopt comprehensive house rules governing  
18 sports wagering transactions with its patrons. The rules shall specify  
19 the amounts to be paid on winning wagers and the effect of schedule  
20 changes. The house rules, together with any other information the  
21 commission deems appropriate, shall be conspicuously displayed in the  
22 sports wagering lounge and included in the terms and conditions of the  
23 account wagering system, and copies shall be made readily available to  
24 patrons.

TITLE 10

## GAMING INSPECTOR GENERAL

27 Section 1368. Establishment of the office of gaming inspector general.

1369. State gaming inspector general; functions and duties.

1       1370. Powers.

2       1371. Responsibilities of the commission and its officers and  
3       employees.

4       § 1368. Establishment of the office of gaming inspector general.

5       There is hereby created within the commission the office of gaming  
6       inspector general. The head of the office shall be the gaming inspector  
7       general who shall be appointed by the governor by and with the advice  
8       and consent of the senate. The inspector general shall serve at the  
9       pleasure of the governor. The inspector general shall report directly to  
10      the governor. The person appointed as inspector general shall, upon his  
11      or her appointment, have not less than ten years professional experience  
12      in law, investigation, or auditing. The inspector general shall be  
13      compensated within the limits of funds available therefor, provided,  
14      however, such salary shall be no less than the salaries of certain state  
15      officers holding the positions indicated in paragraph (a) of subdivision  
16      one of section one hundred sixty-nine of the executive law.

17      § 1369. State gaming inspector general; functions and duties. The  
18      state gaming inspector general shall have the following duties and  
19      responsibilities:

20      1. receive and investigate complaints from any source, or upon his or  
21      her own initiative, concerning allegations of corruption, fraud, crimi-  
22      nal activity, conflicts of interest or abuse in the commission;  
23      2. inform the commission members of such allegations and the progress  
24      of investigations related thereto, unless special circumstances require  
25      confidentiality;  
26      3. determine with respect to such allegations whether disciplinary  
27      action, civil or criminal prosecution, or further investigation by an

1 appropriate federal, state or local agency is warranted, and to assist  
2 in such investigations;

3 4. prepare and release to the public written reports of such investi-  
4 gations, as appropriate and to the extent permitted by law, subject to  
5 redaction to protect the confidentiality of witnesses. The release of  
6 all or portions of such reports may be deferred to protect the confiden-  
7 tiality of ongoing investigations;

8 5. review and examine periodically the policies and procedures of the  
9 commission with regard to the prevention and detection of corruption,  
10 fraud, criminal activity, conflicts of interest or abuse;

11 6. recommend remedial action to prevent or eliminate corruption,  
12 fraud, criminal activity, conflicts of interest or abuse in the commis-  
13 sion; and

14 7. establish programs for training commission officers and employees  
15 regarding the prevention and elimination of corruption, fraud, criminal  
16 activity, conflicts of interest or abuse in the commission.

17 § 1370. Powers. The state gaming inspector general shall have the  
18 power to:

19 1. subpoena and enforce the attendance of witnesses;  
20 2. administer oaths or affirmations and examine witnesses under oath;  
21 3. require the production of any books and papers deemed relevant or

22 material to any investigation, examination or review;  
23 4. notwithstanding any law to the contrary, examine and copy or remove  
24 documents or records of any kind prepared, maintained or held by the  
25 commission;

26 5. require any commission officer or employee to answer questions  
27 concerning any matter related to the performance of his or her official  
28 duties. No statement or other evidence derived therefrom may be used

1   against such officer or employee in any subsequent criminal prosecution  
2   other than for perjury or contempt arising from such testimony. The  
3   refusal of any officer or employee to answer questions shall be cause  
4   for removal from office or employment or other appropriate penalty;  
5    6. monitor the implementation by the commission of any recommendations  
6   made by the state inspector general; and  
7    7. perform any other functions that are necessary or appropriate to  
8   fulfill the duties and responsibilities of the office.

9    § 1371. Responsibilities of the commission and its officers and  
10   employees. 1. Every commission officer or employee shall report prompt-  
11   ly to the state gaming inspector general any information concerning  
12   corruption, fraud, criminal activity, conflicts of interest or abuse by  
13   another state officer or employee relating to his or her office or  
14   employment, or by a person having business dealings with the commission  
15   relating to those dealings. The knowing failure of any officer or  
16   employee to so report shall be cause for removal from office or employ-  
17   ment or other appropriate penalty. Any officer or employee who acts  
18   pursuant to this subdivision by reporting to the state gaming inspector  
19   general improper governmental action as defined in section  
20   seventy-five-b of the civil service law shall not be subject to dismiss-  
21   al, discipline or other adverse personnel action.

22    2. The commission chair shall advise the governor within ninety days  
23   of the issuance of a report by the state gaming inspector general as to  
24   the remedial action that the commission has taken in response to any  
25   recommendation for such action contained in such report.

26    § 3. Section 225.00 of the penal law is amended by adding eighteen new  
27   subdivisions 13 through 30 to read as follows:

1       13. "Authorized gaming establishment" means any structure, structure  
2       and adjacent or attached structure, or grounds adjacent to a structure  
3       in which casino gaming, conducted pursuant to article thirteen of the  
4       racing, pari-mutuel wagering and breeding law, or Class III gaming, as  
5       authorized pursuant to a compact reached between the state of New York  
6       and a federally recognized Indian nation or tribe under the federal  
7       Indian Gaming Regulatory Act of 1988, is conducted and shall include all  
8       public and non-public areas of any such building, except for such areas  
9       of a building where either Class I or II gaming are conducted or any  
10      building or grounds known as a video gaming entertainment facility,  
11      including facilities where food and drink are served, as well as those  
12      areas not normally open to the public, such as where records related to  
13      video lottery gaming operations are kept, except shall not include the  
14      racetracks or such areas where such video lottery gaming operations or  
15      facilities do not take place or exist, such as racetrack areas or fair-  
16      grounds which are wholly unrelated to video lottery gaming operations,  
17      pursuant to section sixteen hundred seventeen-a and paragraph five of  
18      subdivision a of section sixteen hundred twelve of the tax law, as  
19      amended and implemented.

20      14. "Authorized gaming operator" means an enterprise or business enti-  
21      ty authorized by state or federal law to operate casino or video lottery  
22      gaming.

23      15. "Casino gaming" means games authorized to be played pursuant to a  
24      license granted under article thirteen of the racing, pari-mutuel wager-  
25      ing and breeding law or by federally recognized Indian nations or tribes  
26      pursuant to a valid gaming compact reached in accordance with the feder-  
27      al Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat.  
28      2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

1       16. "Cash equivalent" means a treasury check, a travelers check, wire  
2       transfer of funds, transfer check, money order, certified check, cash-  
3       iers check, payroll check, a check drawn on the account of the author-  
4       ized gaming operator payable to the patron or to the authorized gaming  
5       establishment, a promotional coupon, promotional chip, promotional  
6       cheque, promotional token, or a voucher recording cash drawn against a  
7       credit card or charge card.

8       17. "Cheques" or "chips" or "tokens" means nonmetal, metal or partly  
9       metal representatives of value, redeemable for cash or cash equivalent,  
10      and issued and sold by an authorized casino operator for use at an  
11      authorized gaming establishment. The value of such cheques or chips or  
12      tokens shall be considered equivalent in value to the cash or cash  
13      equivalent exchanged for such cheques or chips or tokens upon purchase  
14      or redemption.

15      18. "Class I gaming" and "Class II gaming" means those forms of gaming  
16      that are not Class III gaming, as defined in subsection eight of section  
17      four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703.

18      19. "Class III gaming" means those forms of gaming that are not Class  
19      I or Class II gaming, as defined in subsections six and seven of section  
20      four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703 and  
21      those games enumerated in the Appendix of a gaming compact.

22      20. "Compact" or "gaming compact" means the agreement between a feder-  
23      ally recognized Indian tribe and the state of New York regarding Class  
24      III gaming activities entered into pursuant to the federal Indian Gaming  
25      Regulatory Act, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C.  
26      §§ 2701-21 and 18 U.S.C. §§ 1166-68 (1988 & Supp. II).

27      21. "Gaming activity" means any gambling activity, whether lawful or  
28      otherwise.

1       22. "Gaming equipment or device" means any machine or device which is  
2       specially designed or manufactured for use in the operation of any Class  
3       III or video lottery game.

4       23. "Gaming regulatory authority" means, with respect to any author-  
5       ized gaming establishment on Indian lands, territory or reservation, the  
6       Indian nation or tribal gaming commission, its authorized officers,  
7       agents and representatives acting in their official capacities or such  
8       other agency of a nation or tribe as the nation or tribe may designate  
9       as the agency responsible for the regulation of Class III gaming, joint-  
10      ly with the state gaming agency, conducted pursuant to a gaming compact  
11      between the nation or tribe and the state of New York, or with respect  
12      to any casino gaming authorized pursuant to article thirteen of the  
13      racing, pari-mutuel wagering and breeding law or video lottery gaming  
14      conducted pursuant to section sixteen hundred seventeen-a and paragraph  
15      five of subdivision a of section sixteen hundred twelve of the tax law,  
16      as amended and implemented.

17      24. "Premises" includes any structure, parking lot, building, vehicle,  
18      watercraft, and any real property.

19      25. "Sell" means to sell, exchange, give or dispose of to another, or  
20      to offer or agree to do the same.

21      26. "State gaming agency" shall mean the New York state gaming commis-  
22      sion, its authorized officials, agents, and representatives acting in  
23      their official capacities as the regulatory agency of the state which  
24      has responsibility for regulation with respect to video lottery gaming  
25      or casino gaming.

26      27. "Unfair gaming equipment" means loaded dice, marked cards, substi-  
27      tuted cards or dice, fixed roulette wheels, visual devices, or any other

1 device or equipment not in use at the outset of the contest of chance or  
2 not permitted by the rules of the gaming activity.

3 28. "Unlawful gaming property" means:

4 (a) any device, not prescribed for use in the gaming activity by its  
5 rules, which is capable of assisting a player:

6 (i) to calculate any probabilities material to the outcome of a  
7 contest of chance; or

8 (ii) to receive or transmit information material to the outcome of a  
9 contest of chance; or

10 (b) any object or article which, by virtue of its size, shape or any  
11 other quality, is capable of being used in a gaming activity as an  
12 improper substitute for a genuine chip, cheque, token, betting coupon,  
13 debit instrument, voucher or other instrument or indicia of value; or  
14 (c) any unfair gaming equipment.

15 29. "Video lottery gaming" means any lottery game played on a video  
16 lottery terminal, which consists of multiple players competing for a  
17 chance to win a random drawn prize pursuant to section sixteen hundred  
18 seventeen-a and paragraph five of subdivision a of section sixteen  
19 hundred twelve of the tax law, as amended and implemented.

20 30. "Voucher" means an instrument of value generated by a video  
21 lottery terminal representing a monetary amount and/or play value owed  
22 to a customer at a specific video lottery terminal based on video  
23 lottery gaming winnings and/or amounts not wagered.

24 § 4. The penal law is amended by adding ten new sections 225.55,  
25 225.60, 225.65, 225.70, 225.75, 225.80, 225.85, 225.90, 225.95 and  
26 225.100 to read as follows:

27 § 225.55 Gaming fraud in the second degree.

1     A person is guilty of gaming fraud in the second degree when he or  
2     she:

3     1. commits a gaming fraud with intent to defraud and in violation of  
4     the rules of the gaming activity, misrepresents, changes or attempts to  
5     change the amount bet or wagered on, or the outcome or possible outcome  
6     of the contest or event which is the subject of the bet or wager, or the  
7     amount or frequency of payment in the gaming activity; or  
8     2. with intent to defraud, obtains or attempts to obtain anything of  
9     value from a gaming activity without having won such amount by a bet or  
10    wager contingent thereon.

11    Gaming fraud in the second degree is a class A misdemeanor.

12    § 225.60 Gaming fraud in the first degree.

13    A person is guilty of gaming fraud in the first degree when he or she  
14    commits a gaming fraud in the second degree, and:

15    1. The value of the gaming fraud exceeds one thousand dollars; or  
16    2. He or she concurrently uses or possesses unlawful gaming property;  
17    or  
18    3. He or she has been previously convicted within the preceding five  
19    years of any offense of which an essential element is the commission of  
20    a gaming fraud.

21    Gaming fraud in the first degree is a class E felony.

22    § 225.65 Use of counterfeit, unapproved or unlawful wagering instru-  
23    ments.

24    A person is guilty of use of counterfeit, unapproved or unlawful  
25    wagering instruments when in playing or using any gaming activity  
26    designed to be played with, received or be operated by chips, cheques,  
27    tokens, vouchers or other wagering instruments approved by the appropri-  
28    ate gaming regulatory authority, he or she knowingly uses chips,

1   cheques, tokens, vouchers or other wagering instruments other than those  
2   approved by the appropriate gaming regulating authority and the state  
3   gaming agency or lawful coin or legal tender of the United States of  
4   America.

5   Possession of more than one counterfeit, unapproved or unlawful wager-  
6   ing instrument described in this section is presumptive evidence of  
7   possession thereof with knowledge of its character or contents.

8   Use of counterfeit, unapproved or unlawful wagering instruments is a  
9   class D felony.

10   § 225.70 Possession of unlawful gaming property in the third degree.

11   A person is guilty of possession of unlawful gaming property in the  
12   third degree when he or she knowingly possesses unlawful gaming property  
13   at a premises being used for gaming activity.

14   Possession of unlawful gaming property in the third degree is a class  
15   A misdemeanor.

16   § 255.75 Possession of unlawful gaming property in the second degree.

17   A person is guilty of possession of unlawful gaming property in the  
18   second degree when:

19    1. He or she possesses, with intent to use, unlawful gaming property  
20   at a premises being used for gaming activity; or

21    2. He or she makes, sells, or possesses with intent to sell, any  
22   unlawful gaming property, with intent that it be made available to a  
23   person for unlawful use; or

24    3. He or she knowingly possesses unlawful gaming property and the face  
25   value of the improper substitute property exceeds one hundred dollars;

26   or

27    4. He or she commits the offense of possession of unlawful gaming  
28   property in the third degree and has been previously convicted within

1   the preceding five years of any offense of which an essential element is  
2   possession of unlawful gaming property.

3   Possession of unlawful gaming property in the second degree is a class  
4   E felony.

5   § 225.80 Possession of unlawful gaming property in the first degree.

6   A person is guilty of possession of unlawful gaming property in the  
7   first degree when:

8    1. He or she knowingly possesses unlawful gaming property and the face  
9   value of the improper substitute property exceeds five hundred dollars;  
10   or

11   2. He or she commits the offense of possession of unlawful gaming  
12   property in the second degree as defined in subdivision one, two or  
13   three of section 225.75 of this article and has been previously  
14   convicted within the preceding five years of any offense of which an  
15   essential element is possession of unlawful gaming property.

16   Possession of unlawful gaming property in the first degree is a class  
17   D felony.

18   § 225.85 Use of unlawful gaming property.

19   A person is guilty of use of unlawful gaming property when he or she  
20   knowingly uses unlawful gaming property at a premises being used for  
21   gaming activity.

22   Use of unlawful gaming property is a class D felony.

23   § 225.90 Manipulation of gaming outcomes at an authorized gaming estab-  
24   lishment.

25   A person is guilty of manipulation of gaming outcomes at an authorized  
26   gaming establishment when he or she:

27    1. Knowingly conducts, operates, deals or otherwise manipulates, or  
28   knowingly allows to be conducted, operated, dealt or otherwise manipu-

1    lated, cards, dice or gaming equipment or device, for themselves or for  
2    another, through any trick or sleight of hand performance, with the  
3    intent of deceiving or altering the elements of chance or normal random  
4    selection which determines the result or outcome of the game, or the  
5    amount or frequency of the payment in a game; or

6    2. Knowingly uses, conducts, operates, deals, or exposes for play, or  
7    knowingly allows to be used, conducted, operated, dealt or exposed for  
8    play any cards, dice or gaming equipment or device, or any combination  
9    of gaming equipment or devices, which have in any manner been altered,  
10    marked or tampered with, or placed in a condition, or operated in a  
11    manner, the result of which tends to deceive or tends to alter the  
12    elements of chance or normal random selection which determine the result  
13    of the game or outcome, or the amount or frequency of the payment in a  
14    game; or

15    3. Knowingly uses, or possesses with the intent to use, any cards,  
16    dice or other gaming equipment or devices other than that provided by an  
17    authorized gaming operator for current use in a permitted gaming activ-  
18    ity; or

19    4. Alters or misrepresents the outcome of a game or other event on  
20    which bets or wagers have been made after the outcome is made sure but  
21    before it is revealed to players.

22    Possession of altered, marked or tampered with dice, cards, or gaming  
23    equipment or devices at an authorized gambling establishment is presump-  
24    tive evidence of possession thereof with knowledge of its character or  
25    contents and intention to use such altered, marked or tampered with  
26    dice, cards, or gaming equipment or devices in violation of this  
27    section.

1     Manipulation of gaming outcomes at an authorized gaming establishment  
2     is a class E felony.

3     § 225.95 Unlawful manufacture, sale, distribution, marking, altering or  
4         modification of equipment and devices associated with gaming.

5     A person is guilty of unlawful manufacture, sale, distribution, mark-  
6     ing, altering or modification of equipment and devices associated with  
7     gaming when if he or she:

8         1. Manufactures, sells or distributes any cards, chips, cheques,  
9         tokens, dice, vouchers, game or device and he or she knew or reasonably  
10       should have known it was intended to be used to violate any provision of  
11       this article; or

12         2. Marks, alters or otherwise modifies any associated gaming equipment  
13         or device in a manner that either affects the result of the wager by  
14         determining win or loss or alters the normal criteria of random  
15         selection in a manner that affects the operation of a game or determines  
16         the outcome of a game, and he or she knew or reasonably should have  
17         known that it was intended to be used to violate any provision of this  
18         article.

19         Unlawful manufacture, sale, distribution, marking, altering or modifi-  
20         cation of equipment and devices associated with gaming is a class E  
21         felony.

22     § 225.100 Employment or participation without a license, registration or  
23         certification.

24     A person is guilty of employment or participation without a license,  
25     registration or certification when, knowing such person's employment or  
26     business with the authorized gaming establishment requires obtaining a  
27     requisite license, registration or certification, such person commences  
28     employment or business with the authorized gaming establishment without

1 having first obtained the requisite license, registration or certif-  
2 cation.

3 Employment or participation without a license, registration or certif-  
4 cation is a class A misdemeanor.

5 § 5. Section 109-a of the racing, pari-mutuel wagering and breeding  
6 law is REPEALED and a new section 109-a is added to read as follows:

7 § 109-a. Separate board for facility siting. Should the commission  
8 elect to establish a separate board to perform designated functions  
9 under article thirteen of this chapter, the following provisions shall  
10 apply to the board:

11 1. The commission shall select the individual members of the board and  
12 name the chair of the board. Each member of the board shall be a resi-  
13 dent of the state of New York. No member of the legislature or person  
14 holding any elective or appointive office in federal, state or local  
15 government shall be eligible to serve as a member of the board.

16 2. Qualifications of members. Members of the board shall each possess  
17 no less than ten years of responsible experience in fiscal matters and  
18 shall have any one or more of the following qualifications:

19 (a) significant service as an accountant economist, or financial  
20 analyst experienced in finance or economics;

21 (b) significant service in an academic field relating to finance or  
22 economics;

23 (c) significant service and knowledge of the commercial real estate  
24 industry; or

25 (d) significant service as an executive with fiduciary responsibil-  
26 ties in charge of a large organization or foundation.

27 3. No member of the board:

1       (a) may have an official relationship to a person that holds a license  
2 under this chapter;

3       (b) may have any direct or indirect financial interest, ownership, or  
4 management, including holding any stocks, bonds, or other similar finan-  
5 cial interests in any gaming activities, including horse racing, lottery  
6 or gambling;

7       (c) may receive or share in, directly or indirectly, the receipts or  
8 proceeds of any gaming activities, including horse racing, lottery or  
9 gambling;

10     (d) may have a beneficial interest in any contract for the manufacture  
11 or sale of gaming devices, the conduct of any gaming activity, or the  
12 provision of any independent consulting services in connection with any  
13 establishment licensed under this chapter.

14     4. Board members are entitled to actual and necessary expenses  
15 incurred in the discharge of their duties but may not receive compen-  
16 sation for their service on the board.

17     5. (a) The commission shall provide staff to the board.

18     (b) The board shall contract with an outside consultant to provide  
19 analysis of the gaming industry and to support the board's comprehensive  
20 review and evaluation of the applications submitted to the board for  
21 gaming facility licenses.

22     (c) The board may contract with attorneys, accountants, auditors and  
23 financial and other experts to render necessary services.

24     (d) All other state agencies shall cooperate with and assist the board  
25 in the fulfillment of its duties under this article and may render such  
26 services to the board within their respective functions as the board may  
27 reasonably request.

1       6. Utilizing the powers and duties prescribed for it by article thirteen  
2       of this chapter, the board shall select, through a competitive  
3       process consistent with provisions of article thirteen of this chapter,  
4       not more than four gaming facility license applicants. Such selectees  
5       shall be authorized to receive a gaming facility license, if found suitable  
6       by the commission. The board may select another applicant for  
7       authorization to be licensed as a gaming facility if a previous selectee  
8       fails to meet licensing thresholds, is revoked or surrenders a license  
9       opportunity.

10      § 6. Subdivision 2 of section 99-h of the state finance law, as  
11     amended by section 1 of part V of chapter 59 of the laws of 2006, is  
12     amended to read as follows:

13      2. Such account shall consist of all revenues resulting from tribal-  
14     state compacts executed pursuant to article two of the executive law  
15     [and], a tribal-state compact with the St. Regis Mohawk tribe executed  
16     pursuant to chapter five hundred ninety of the laws of two thousand four  
17     and the Oneida Settlement Agreement referenced in section eleven of the  
18     executive law.

19      § 7. Subdivision 3 of section 99-h of the state finance law, as  
20     amended by section 1 of part W of chapter 60 of the laws of 2011, is  
21     amended to read as follows:

22      3. Moneys of the account, following the segregation of appropriations  
23     enacted by the legislature, shall be available for purposes including  
24     but not limited to: (a) reimbursements or payments to municipal govern-  
25     ments that host tribal casinos pursuant to a tribal-state compact for  
26     costs incurred in connection with services provided to such casinos or  
27     arising as a result thereof, for economic development opportunities and  
28     job expansion programs authorized by the executive law; provided, howev-

1 er, that for any gaming facility located in the city of Buffalo, the  
2 city of Buffalo shall receive a minimum of twenty-five percent of the  
3 negotiated percentage of the net drop from electronic gaming devices the  
4 state receives pursuant to the compact, and provided further that for  
5 any gaming facility located in the city of Niagara Falls, county of  
6 Niagara a minimum of twenty-five percent of the negotiated percentage of  
7 the net drop from electronic gaming devices the state receives pursuant  
8 to the compact shall be distributed in accordance with subdivision four  
9 of this section, and provided further that for any gaming facility  
10 located in the county or counties of Cattaraugus, Chautauqua or Allega-  
11 ny, the municipal governments of the state hosting the facility shall  
12 collectively receive a minimum of twenty-five percent of the negotiated  
13 percentage of the net drop from electronic gaming devices the state  
14 receives pursuant to the compact; and provided further that pursuant to  
15 chapter five hundred ninety of the laws of two thousand four, a minimum  
16 of twenty-five percent of the revenues received by the state pursuant to  
17 the state's compact with the St. Regis Mohawk tribe shall be made avail-  
18 able to the counties of Franklin and St. Lawrence, and affected towns in  
19 such counties. Each such county and its affected towns shall receive  
20 fifty percent of the moneys made available by the state; and provided  
21 further that the state shall annually make twenty-five percent of the  
22 negotiated percentage of the net drop from all gaming devices the state  
23 actually receives pursuant to the Oneida Settlement Agreement confirmed  
24 by section eleven of the executive law as available to the county of  
25 Oneida, and a sum of three and one-half million dollars to the county of  
26 Madison. Additionally, the state shall distribute for a period of nine-  
27 teen and one-quarter years, an additional annual sum of two and one-half  
28 million dollars to the county of Oneida. Additionally, the state shall

1 distribute the one-time eleven million dollar payment received by the  
2 state pursuant to such agreement with the Oneida Nation of New York to  
3 the county of Madison by wire transfer upon receipt of such payment by  
4 the state; and (b) support and services of treatment programs for  
5 persons suffering from gambling addictions. Moneys not segregated for  
6 such purposes shall be transferred to the general fund for the support  
7 of government during the fiscal year in which they are received.

8     § 7-a. Subdivision 3 of section 99-h of the state finance law, as  
9 amended by section 1 of part QQ of chapter 59 of the laws of 2009, is  
10 amended to read as follows:

11     3. Moneys of the account, following appropriation by the legislature,  
12 shall be available for purposes including but not limited to: (a)  
13 reimbursements or payments to municipal governments that host tribal  
14 casinos pursuant to a tribal-state compact for costs incurred in  
15 connection with services provided to such casinos or arising as a result  
16 thereof, for economic development opportunities and job expansion  
17 programs authorized by the executive law; provided, however, that for  
18 any gaming facility located in the city of Buffalo, the city of Buffalo  
19 shall receive a minimum of twenty-five percent of the negotiated  
20 percentage of the net drop from electronic gaming devices the state  
21 receives pursuant to the compact, and provided further that for any  
22 gaming facility located in the city of Niagara Falls, county of Niagara  
23 a minimum of twenty-five percent of the negotiated percentage of the net  
24 drop from electronic gaming devices the state receives pursuant to the  
25 compact shall be distributed in accordance with subdivision four of this  
26 section, and provided further that for any gaming facility located in  
27 the county or counties of Cattaraugus, Chautauqua or Allegany, the  
28 municipal governments of the state hosting the facility shall collec-

1 tively receive a minimum of twenty-five percent of the negotiated  
2 percentage of the net drop from electronic gaming devices the state  
3 receives pursuant to the compact; and provided further that pursuant to  
4 chapter five hundred ninety of the laws of two thousand four, a minimum  
5 of twenty-five percent of the revenues received by the state pursuant to  
6 the state's compact with the St. Regis Mohawk tribe shall be made avail-  
7 able to the counties of Franklin and St. Lawrence, and affected towns in  
8 such counties. Each such county and its affected towns shall receive  
9 fifty percent of the moneys made available by the state; and provided  
10 further that the state shall annually make twenty-five percent of the  
11 negotiated percentage of the net drop from all gaming devices the state  
12 actually receives pursuant to the Oneida Settlement Agreement as  
13 confirmed by section eleven of the executive law as available to the  
14 county of Oneida, and a sum of three and one-half million dollars to the  
15 county of Madison. Additionally, the state shall distribute for a period  
16 of nineteen and one-quarter years, an additional annual sum of two and  
17 one-half million dollars to the county of Oneida. Additionally, the  
18 state shall distribute the one-time eleven million dollar payment  
19 received by the state pursuant to such agreement with the Oneida Nation  
20 of New York to the county of Madison by wire transfer upon receipt of  
21 such payment by the state; and (b) support and services of treatment  
22 programs for persons suffering from gambling addictions. Moneys not  
23 appropriated for such purposes shall be transferred to the general fund  
24 for the support of government during the fiscal year in which they are  
25 received.

26 § 8. Subdivision 3 of section 99-h of the state finance law, as  
27 amended by section 23 of part HH of chapter 57 of the laws of 2013, is  
28 amended to read as follows:

1       3. Moneys of the account, following the segregation of appropriations  
2 enacted by the legislature, shall be available for purposes including  
3 but not limited to: (a) reimbursements or payments to municipal govern-  
4 ments that host tribal casinos pursuant to a tribal-state compact for  
5 costs incurred in connection with services provided to such casinos or  
6 arising as a result thereof, for economic development opportunities and  
7 job expansion programs authorized by the executive law; provided, howev-  
8 er, that for any gaming facility located in the county of Erie or  
9 Niagara, the municipal governments hosting the facility shall collec-  
10 tively receive a minimum of twenty-five percent of the negotiated  
11 percentage of the net drop from electronic gaming devices the state  
12 receives pursuant to the compact and provided further that for any  
13 gaming facility located in the county or counties of Cattaraugus, Chau-  
14 tauqua or Allegany, the municipal governments of the state hosting the  
15 facility shall collectively receive a minimum of twenty-five percent of  
16 the negotiated percentage of the net drop from electronic gaming devices  
17 the state receives pursuant to the compact; and provided further that  
18 pursuant to chapter five hundred ninety of the laws of two thousand  
19 four, a minimum of twenty-five percent of the revenues received by the  
20 state pursuant to the state's compact with the St. Regis Mohawk tribe  
21 shall be made available to the counties of Franklin and St. Lawrence,  
22 and affected towns in such counties. Each such county and its affected  
23 towns shall receive fifty percent of the moneys made available by the  
24 state; and provided further that the state shall annually make twenty-  
25 five percent of the negotiated percentage of the net drop from all  
26 gaming devices the state actually receives pursuant to the Oneida  
27 Settlement Agreement confirmed by section eleven of the executive law  
28 available to the county of Oneida, and a sum of three and one-half

1   million dollars to the county of Madison. Additionally, the state shall  
2   distribute, for a period of nineteen and one-quarter years, an addi-  
3   tional annual sum of two and one-half million dollars to the county of  
4   Oneida. Additionally, the state shall distribute the one-time eleven  
5   million dollar payment actually received by the state pursuant to the  
6   Oneida Settlement Agreement to the county of Madison by wire transfer  
7   upon receipt of such payment by the state; and (b) support and services  
8   of treatment programs for persons suffering from gambling addictions.  
9   Moneys not segregated for such purposes shall be transferred to the  
10 general fund for the support of government during the fiscal year in  
11 which they are received.

12   § 9. Section 99-h of the state finance law, as amended by chapter 747  
13 of the laws of 2006, is amended by adding a new subdivision 3-a to read  
14 as follows:

15   3-a. Ten percent of any of the funds actually received by the state  
16   pursuant to the tribal-state compacts and agreements described in subdi-  
17   vision two of this section that are retained in the fund after the  
18   distributions required by subdivision three of this section, but prior  
19   to the transfer of unsegregated moneys to the general fund required by  
20   such subdivision, shall be distributed to counties in each respective  
21   exclusivity zone provided they do not otherwise receive a share of said  
22   revenues pursuant to this section. Such distribution shall be made among  
23   such counties on a per capita basis, excluding the population of any  
24   municipality that receives a distribution pursuant to subdivision three  
25   of this section.

26   § 10. The state finance law is amended by adding a new section 97-nnnn  
27 to read as follows:

1       § 97-nnnn. Commercial gaming revenue fund. 1. There is hereby estab-  
2       lished in the joint custody of the comptroller and the commissioner of  
3       taxation and finance an account in the miscellaneous special revenue  
4       fund to be known as the "commercial gaming revenue fund".

5       2. Such account shall consist of all revenues from all taxes and fees  
6       imposed by article thirteen of the racing, pari-mutuel wagering and  
7       breeding law; any interest and penalties imposed by the New York state  
8       gaming commission relating to those taxes; the percentage of the value  
9       of expired gaming related obligations; and all penalties levied and  
10      collected by the commission. Additionally, the state gaming commission  
11      shall pay into the account any appropriate funds, cash or prizes  
12      forfeited from gambling activity.

13      3. Moneys of the account shall be available as follows, unless other-  
14      wise specified by the upstate New York gaming economic development act  
15      of two thousand thirteen, following appropriation by the legislature:

16      a. eighty percent of the moneys in such fund shall be appropriated or  
17      transferred only for elementary and secondary education.

18      b. ten percent of the moneys in such fund shall be appropriated or  
19      transferred from the commercial gaming revenue fund equally between the  
20      host municipality and host county.

21      c. ten percent of the moneys in such fund, as attributable to a  
22      specific licensed gaming facility, shall be appropriated or transferred  
23      from the commercial gaming revenue fund among counties within the  
24      region, as defined by section one thousand three hundred ten of the  
25      racing, pari-mutuel wagering and breeding law, hosting said facility for  
26      the purpose of real property tax relief and for education assistance.  
27      Such distribution shall be made among the counties on a per capita  
28      basis, subtracting the population of host municipality and county.

1       4. a. As used in this section, the term "base year gaming revenue"  
2 shall mean the sum of all revenue generated to support education from  
3 video lottery gaming as defined by section sixteen hundred seventeen-a  
4 of the tax law in the fiscal year preceding the operation of any gaming  
5 facility pursuant to article thirteen of the racing, pari-mutuel wager-  
6 ing and breeding law.

7       b. Amounts transferred in any year to support elementary and secondary  
8 education shall be calculated as follows:

9           (i) an amount equal to the positive difference, if any, between the  
10 base year gaming revenue amount and the sum of all revenue generated to  
11 support education from video lottery gaming as defined by section  
12 sixteen hundred seventeen-a of the tax law in the current fiscal year  
13 provided that such positive amount, if any, shall be transferred to the  
14 state lottery fund; and

15           (ii) the amount of revenue collected in the prior state fiscal year,  
16 after the distributions made pursuant to paragraphs b and c of subdivi-  
17 sion three of this section, and in excess of any amounts transferred  
18 pursuant to subparagraph (i) of this paragraph in such prior fiscal  
19 year, if any.

20       c. Notwithstanding any provision of law to the contrary, amounts  
21 appropriated or transferred from the commercial gaming revenue fund  
22 pursuant to subparagraph (ii) of this paragraph shall not be included  
23 in: (i) the allowable growth amount computed pursuant to paragraph dd of  
24 subdivision one of section thirty-six hundred two of the education law,  
25 (ii) the preliminary growth amount computed pursuant to paragraph ff of  
26 subdivision one of section thirty-six hundred two of the education law,  
27 and (iii) the allocable growth amount computed pursuant to paragraph gg

1 of subdivision one of section thirty-six hundred two of the education  
2 law.

3 5. Notwithstanding the foregoing, monies received pursuant to:  
4 a. sections one thousand three hundred forty-five and one thousand  
5 three hundred forty-eight of this article shall be exclusively appropri-  
6 ated to the office of alcoholism and substance abuse services to be used  
7 for problem gambling education and treatment purposes.

8 b. section one thousand three hundred forty-nine of this article shall  
9 be exclusively appropriated to the commission for regulatory investi-  
10 gations.

11 c. section one thousand three hundred fifty of this article shall be  
12 exclusively appropriated to the commission for costs regulation.

13 6. Moneys not distributed for such purposes shall be transferred to  
14 the general fund for the support of government during the fiscal year in  
15 which they are received.

16 § 11. The penal law is amended by adding a new section 156.40 to read  
17 as follows:

18 § 156.40 Operating an unlawful electronic sweepstakes.

19 1. As used in this section the following words and terms shall have  
20 the following meanings:

21 (a) "Electronic machine or device" means a mechanically, electrically  
22 or electronically operated machine or device that is owned, leased or  
23 otherwise possessed by a sweepstakes sponsor or promoter, or any spon-  
24 sors, promoters, partners, affiliates, subsidiaries or contractors ther-  
25 eof; that is intended to be used by a sweepstakes entrant; that uses  
26 energy; and that is capable of displaying information on a screen or  
27 other mechanism; provided, that an electronic machine or device may,  
28 without limitation:

1       (1) be server-based;

2       (2) use a simulated game terminal as a representation of the prizes

3       associated with the results of the sweepstakes entries;

4       (3) utilize software such that the simulated game influences or deter-

5       mines the winning or value of the prize;

6       (4) select prizes from a predetermined finite pool of entries;

7       (5) utilize a mechanism that reveals the content of a predetermined

8       sweepstakes entry;

9       (6) predetermine the prize results and stores those results for deliv-

10      ery at the time the sweepstakes entry results are revealed;

11      (7) utilize software to create a game result;

12      (8) require deposit of any money, coin or token, or the use of any

13      credit card, debit card, prepaid card or any other method of payment to

14      activate the electronic machine or device;

15      (9) require direct payment into the electronic machine or device, or

16      remote activation of the electronic machine or device;

17      (10) require purchase of a related product having legitimate value;

18      (11) reveal the prize incrementally, even though it may not influence

19      if a prize is awarded or the value of any prize awarded;

20      (12) determine and associate the prize with an entry or entries at the

21      time the sweepstakes is entered; or

22      (13) be a slot machine or other form of electrical, mechanical, or

23      computer game.

24      (b) "Enter" or "entry" means the act or process by which a person

25      becomes eligible to receive any prize offered in a sweepstakes.

26      (c) "Entertaining display" means any visual information, capable of

27      being seen by a sweepstakes entrant, that takes the form of actual game

28      play or simulated game play.

1       (d) "Prize" means any gift, award, gratuity, good, service, credit or  
2 anything else of value, which may be transferred to a person, whether  
3 possession of the prize is actually transferred, or placed on an account  
4 or other record as evidence of the intent to transfer the prize.

5       (e) "Sweepstakes" means any game, advertising scheme or plan, or other  
6 promotion, which, with or without payment of any consideration, a person  
7 may enter to win or become eligible to receive any prize, the determini-  
8 nation of which is based upon chance.

9       2. A person is guilty of operating an unlawful electronic sweepstakes  
10 when he or she knowingly possesses with the intent to operate, or place  
11 into operation, an electronic machine or device to:

12       (a) conduct a sweepstakes through the use of an entertaining display,  
13 including the entry process or the reveal of a prize; or  
14       (b) promote a sweepstakes that is conducted through the use of an  
15 entertaining display, including the entry process or the reveal of a  
16 prize.

17       3. Nothing in this section shall be construed to make illegal any  
18 activity which is lawfully conducted as the New York state lottery for  
19 education as authorized by article thirty-four of the tax law; pari-mu-  
20 tuel wagering on horse races as authorized by articles two, three, four,  
21 five-A, and ten of the racing, pari-mutuel wagering and breeding law;  
22 the game of bingo as authorized pursuant to article fourteen-H of the  
23 general municipal law; games of chance as authorized pursuant to article  
24 nine-A of the general municipal law; gaming as authorized by article  
25 thirteen of the racing, pari-mutuel wagering and breeding law; or pursu-  
26 ant to the federal Indian Gaming Regulatory Act.

27       Operating an unlawful electronic sweepstakes is a class D felony.

1       § 12. The legislature hereby finds that long-standing disputes between  
2 the Oneida Nation of New York and the State of New York, Madison County  
3 and Oneida County, have generated litigation in state and federal courts  
4 regarding property and other taxation, the status of Oneida Nation lands  
5 and transfer of such lands to the United States to be held in trust for  
6 the Oneida Nation, and that such litigation and disputes have caused  
7 decades of unrest and uncertainty for the citizens and residents of the  
8 Central New York region of this state. The legislature further finds  
9 that it is in the best interests of all citizens, residents and polit-  
10 ical subdivisions of this state to remove any uncertainty that such  
11 litigation or disputes have created regarding the title to and jurisdic-  
12 tional status of land within the state. The legislature recognizes that  
13 negotiated settlement of these disputes will facilitate a cooperative  
14 relationship between the state, the counties and the Oneida Nation.  
15 Therefore, the legislature declares that the following provisions are  
16 enacted to implement the settlement agreement that has been negotiated  
17 and executed by the governor on behalf of the people of this state.

18       § 13. Section 11 of the executive law is REPEALED and a new section 11  
19 is added to read as follows:

20       § 11. Indian settlement agreements. 1. Oneida settlement agreement.  
21 Notwithstanding any other provision of law, upon filing with the secre-  
22 tary of state, the settlement agreement executed between the governor,  
23 the counties of Oneida and Madison, and the Oneida Nation of New York  
24 dated the sixteenth day of May, two thousand thirteen, to be known as  
25 the Oneida Settlement Agreement, including, without limitation, the  
26 provisions contained therein relating to arbitration and judicial review  
27 in state or federal courts and, for the sole purpose thereof, a limited  
28 waiver of the state's Eleventh Amendment sovereign immunity from suit,

1 shall upon its effective date be deemed approved, ratified, validated  
2 and confirmed by the legislature. It is the intention of the legislature  
3 in enacting this section to ensure that the settlement agreement shall  
4 be fully enforceable in all respects as to the rights, benefits, respon-  
5 sibilities and privileges of all parties thereto.

6 § 14. Notwithstanding any inconsistent provision of law, the Nation-  
7 State compact entered into by the State on April 16, 1993 and approved  
8 by the United States Department of the Interior on June 4, 1993, which  
9 approval was published at 58 Fed. Reg. 33160 (June 15, 1993), is deemed  
10 ratified, validated and confirmed nunc pro tunc by the legislature.

11 § 15. Sections 2 and 3 of the Indian law are renumbered sections 3 and  
12 4 and a new section 2 is added to read as follows:

13 § 2. New York state Indian nations and tribes. The term "Indian nation  
14 or tribe" means one of the following New York state Indian nations or  
15 tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poos-  
16 patuck or Unkechauge Nation, Saint Regis Mohawk Tribe, Seneca Nation of  
17 Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca and Tuscaro-  
18 ra Nation.

19 § 16. The Indian law is amended by adding a new section 16 to read as  
20 follows:

21 § 16. Indian settlement agreements. Notwithstanding any other  
22 provision of law, the provisions of the Oneida Settlement Agreement  
23 referenced in section eleven of the executive law shall be deemed to  
24 supersede any inconsistent laws and regulations.

25 § 17. Subdivision 18 of section 282 of the tax law, as added by  
26 section 3 of part K of chapter 61 of the laws of 2005, is amended to  
27 read as follows:

1       18. "Indian nation or tribe" means one of the following New York state  
2 Indian nations or tribes: Cayuga [Indian] Nation [of New York], Oneida  
3 [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or  
4 Unkechauge Nation, [St.] Saint Regis Mohawk Tribe, Seneca Nation of  
5 Indians, Shinnecock [Tribe] Indian Nation, Tonawanda Band of [Senecas]  
6 Seneca and Tuscarora Nation [of Indians].

7       § 18. Subdivision 14 of section 470 of the tax law, as added by  
8 section 1 of part K of chapter 61 of the laws of 2005, is amended to  
9 read as follows:

10      14. "Indian nation or tribe." One of the following New York state  
11 Indian nations or tribes: Cayuga [Indian] Nation [of New York], Oneida  
12 [Indian] Nation of New York, Onondaga Nation [of Indians], Poospatuck or  
13 Unkechauge Nation, [St.] Saint Regis Mohawk Tribe, Seneca Nation of  
14 Indians, Shinnecock [Tribe] Indian Nation, Tonawanda Band of [Senecas]  
15 Seneca and Tuscarora Nation [of Indians].

16      § 19. Subdivision a of section 1617-a of the tax law, as amended by  
17 section 2 of part O-1 of chapter 57 of the laws of 2009, is amended to  
18 read as follows:

19      a. The division of the lottery is hereby authorized to license, pursu-  
20 ant to rules and regulations to be promulgated by the division of the  
21 lottery, the operation of video lottery gaming.

22      (1) at Aqueduct, Monticello, Yonkers, Finger Lakes, and Vernon Downs  
23 racetracks,

24      (2) or at any other racetrack licensed pursuant to article three of  
25 the racing, pari-mutuel wagering and breeding law that are located in a  
26 county or counties in which video lottery gaming has been authorized  
27 pursuant to local law, excluding the licensed racetrack commonly  
28 referred to in article three of the racing, pari-mutuel wagering and

1 breeding law as the "New York state exposition" held in Onondaga county  
2 and the racetracks of the non-profit racing association known as Belmont  
3 Park racetrack and the Saratoga thoroughbred racetrack.

4 (3) at a maximum of two facilities established, pursuant to a compet-  
5 itive process to be determined by the state gaming commission within  
6 each of regions one, two, five and six of zone two as established by  
7 section one thousand three hundred ten of the racing, pari-mutuel wager-  
8 ing and breeding law. The facilities authorized pursuant to this para-  
9 graph shall be deemed vendors for all purposes under this article, and  
10 need not be operated by licensed thoroughbred or harness racing associa-  
11 tions or corporations.

12 (4) at a facility established pursuant to a competitive process to be  
13 determined by the state gaming commission, subject to unanimous approval  
14 of such commission, such approval not to be unreasonably withheld, in  
15 region two of zone one, excepting the county of New York, as established  
16 by section one thousand three hundred ten of the racing, pari-mutuel  
17 wagering and breeding law, to house not more than five thousand video  
18 lottery gaming devices. The facility authorized pursuant to this para-  
19 graph shall be deemed a vendor for all purposes under this article, and  
20 need not be operated by licensed thoroughbred or harness racing associa-  
21 tions or corporations.

22 Such rules and regulations shall provide, as a condition of licensure,  
23 that racetracks to be licensed are certified to be in compliance with  
24 all state and local fire and safety codes, that the division is afforded  
25 adequate space, infrastructure, and amenities consistent with industry  
26 standards for such video gaming operations as found at racetracks in  
27 other states, that racetrack employees involved in the operation of  
28 video lottery gaming pursuant to this section are licensed by the racing

1 and wagering board, and such other terms and conditions of licensure as  
2 the division may establish. Notwithstanding any inconsistent provision  
3 of law, video lottery gaming at a racetrack pursuant to this section  
4 shall be deemed an approved activity for such racetrack under the rele-  
5 vant city, county, town, or village land use or zoning ordinances,  
6 rules, or regulations. No entity licensed by the division operating  
7 video lottery gaming pursuant to this section may house such gaming  
8 activity in a structure deemed or approved by the division as "tempo-  
9 rary" for a duration of longer than eighteen-months. Nothing in this  
10 section shall prohibit the division from licensing an entity to operate  
11 video lottery gaming at an existing racetrack as authorized in this  
12 subdivision whether or not a different entity is licensed to conduct  
13 horse racing and pari-mutuel wagering at such racetrack pursuant to  
14 article two or three of the racing, pari-mutuel wagering and breeding  
15 law.

16 The division, in consultation with the racing and wagering board,  
17 shall establish standards for approval of the temporary and permanent  
18 physical layout and construction of any facility or building devoted to  
19 a video lottery gaming operation. In reviewing such application for the  
20 construction or reconstruction of facilities related or devoted to the  
21 operation or housing of video lottery gaming operations, the division,  
22 in consultation with the racing and wagering board, shall ensure that  
23 such facility:

24 (1) possesses superior consumer amenities and conveniences to encour-  
25 age and attract the patronage of tourists and other visitors from across  
26 the region, state, and nation.  
27 (2) has adequate motor vehicle parking facilities to satisfy patron  
28 requirements.

1       (3) has a physical layout and location that facilitates access to and  
2 from the horse racing track portion of such facility to encourage patron-  
3 age of live horse racing events that are conducted at such track.

4       § 20. Subparagraph (ii) of paragraph 1 of subdivision b of section  
5 1612 of the tax law is amended by adding two new clauses (H-1) and (H-2)  
6 to read as follows:

7       (H-1) Notwithstanding clauses (A), (B), (C), (D), (E), (F), (H) and  
8 (H-2) of this subparagraph where the vendor is authorized pursuant to  
9 paragraph three of subdivision a of section sixteen hundred seventeen-a  
10 of this article, at a rate of forty percent of the total revenue wagered  
11 at the facility after payout for prizes. All facilities authorized  
12 pursuant to paragraph three of subdivision a of section sixteen hundred  
13 seventeen-a of this article shall not be eligible for any vendor's capi-  
14 tal award but are entitled to the vendor's marketing allowance of ten  
15 percent authorized by subparagraph (iii) of this paragraph. Facilities  
16 authorized by paragraph three of subdivision a of section sixteen  
17 hundred seventeen-a of this article shall pay (i) nine percent of the  
18 total wagered after payout for prizes to be split equally to the two  
19 nearest licensed racing corporations and associations within region six  
20 of zone two as established by section one thousand three hundred ten of  
21 the racing, pari-mutuel wagering and breeding law. Half of the funds  
22 received by licensed racing associations and corporations shall be  
23 utilized for the support of purses at such facilities and (ii) one  
24 percent of the total wagered after payout of prizes split equally  
25 between the New York state thoroughbred breeding and development fund  
26 established pursuant to section two hundred fifty-two of the racing,  
27 pari-mutuel wagering and breeding law and the agriculture and New York  
28 state horse breeding development fund established pursuant to section

1 three hundred thirty of the racing, pari-mutuel wagering and breeding  
2 law.

3 (H-2) Notwithstanding clauses (A), (B), (C), (D), (E), (F), (H) and  
4 (H-1) of this subparagraph where the vendor is authorized pursuant to  
5 paragraph four of subdivision a of section sixteen hundred seventeen-a  
6 of this article, at a rate of thirty-eight percent of the total revenue  
7 wagered at the facility after payout for prizes. All facilities author-  
8 ized pursuant to paragraph three of subdivision a of section sixteen  
9 hundred seventeen-a of this article shall not be eligible for any  
10 vendor's capital award but are entitled to the vendor's marketing allow-  
11 ance of ten percent authorized by subparagraph (iii) of this paragraph.  
12 A facility authorized by paragraph three of subdivision a of section  
13 sixteen hundred seventeen-a of this article shall pay (i) ten percent of  
14 the total wagered after payout for prizes to a franchised corporation,  
15 to be equally divided between the franchised corporation and the horse-  
16 men for the support of purses, (ii) four percent of the total wagered  
17 after payout for prizes to a harness racing corporation located in West-  
18 Chester county to be equally divided between the harness corporation and  
19 the horsemen for the support of purses, and (iii) one percent of the  
20 total wagered after payout of prizes split equally between the New York  
21 state thoroughbred breeding and development fund established pursuant to  
22 section two hundred fifty-two of the racing, pari-mutuel wagering and  
23 breeding law and the agriculture and New York state horse breeding  
24 development fund established pursuant to section three hundred thirty of  
25 the racing, pari-mutuel wagering and breeding law.

26     § 21. Section 54-1 of the state finance law, as added by section 1 of  
27 part J of chapter 57 of the laws of 2011, paragraph b of subdivision 2

1 as amended by section 1 of part EE of chapter 57 of the laws of 2013, is  
2 amended to read as follows:

3 § 54-1. State assistance to eligible cities and eligible municipi-  
4 palities in which a video lottery gaming facility is located. 1. Defi-  
5 nitions. When used in this section, unless otherwise expressly stated:

6 a. "Eligible city" shall mean a city with a population equal to or  
7 greater than one hundred twenty-five thousand and less than one million  
8 in which a video lottery gaming facility is located and operating as of  
9 January first, two thousand nine pursuant to section sixteen hundred  
10 seventeen-a of the tax law.

11 b. "Eligible municipality" shall mean a county, city, town or village  
12 in which a video lottery gaming facility is located pursuant to section  
13 sixteen hundred seventeen-a of the tax law that is not located in a city  
14 with a population equal to or greater than one hundred twenty-five thou-  
15 sand.

16 c. "Newly eligible city" shall mean a city with a population equal to  
17 or greater than one hundred twenty-five thousand and less than one  
18 million in which a video lottery gaming facility pursuant to section  
19 sixteen hundred seventeen-a of the tax law is located and which was not  
20 operating as of January first, two thousand thirteen.

21 d. "Newly eligible municipality" shall mean a county, city, town or  
22 village in which a video lottery gaming facility is located pursuant to  
23 section sixteen hundred seventeen-a of the tax law that is not located  
24 in a city with a population equal to or greater than one hundred twen-  
25 ty-five thousand and which was not operating as of January first, two  
26 thousand thirteen.

27 e. "Estimated net machine income" shall mean the estimated full annual  
28 value of total revenue wagered after payout for prizes for games known

1   as video lottery gaming as authorized under article thirty-four of the  
2   tax law during the state fiscal year in which state aid payments are  
3   made pursuant to subdivision two of this section.

4       2. a. Within the amount appropriated therefor, an eligible city shall  
5   receive an amount equal to the state aid payment received in the state  
6   fiscal year commencing April first, two thousand eight from an appropri-  
7   ation for aid to municipalities with video lottery gaming facilities.

8       b. Within the amounts appropriated therefor, eligible municipalities  
9   shall receive an amount equal to fifty-five percent of the state aid  
10 payment received in the state fiscal year commencing April first, two  
11 thousand eight from an appropriation for aid to municipalities with  
12 video lottery gaming facilities.

13      c. A newly eligible city shall receive a state aid payment equal to  
14   two percent of the "estimated net machine income" generated by a video  
15   lottery gaming facility located in such eligible city. Such state aid  
16   payment shall not exceed twenty million dollars per eligible city.

17      d. A newly eligible municipality shall receive a state aid payment  
18   equal to two percent of the "estimated net machine income" generated by  
19   a video lottery gaming facility located within such newly eligible muni-  
20 cipality as follows: (i) twenty-five percent shall be apportioned and  
21 paid to the county; and (ii) seventy-five percent shall be apportioned  
22 and paid on a pro rata basis to eligible municipalities, other than the  
23 county, based upon the population of such eligible municipalities. Such  
24 state aid payment shall not exceed twenty-five percent of an eligible  
25 municipality's total expenditures as reported in the statistical report  
26 of the comptroller in the preceding state fiscal year pursuant to  
27 section thirty-seven of the general municipal law.

1       3. a. State aid payments made to an eligible city or to a newly eligi-  
2 ble city pursuant to [paragraph] paragraphs a and c of subdivision two  
3 of this section shall be used to increase support for public schools in  
4 such city.

5       b. State aid payments made to [an] eligible [municipality] muni-  
6 palities and newly eligible municipalities pursuant to [paragraph] para-  
7 graphs b and d of subdivision two of this section shall be used by such  
8 eligible municipality to: (i) defray local costs associated with a video  
9 lottery gaming facility, or (ii) minimize or reduce real property taxes.

10      4. Payments of state aid pursuant to this section shall be made on or  
11 before June thirtieth of each state fiscal year to the chief fiscal  
12 officer of each eligible city and each eligible municipality on audit  
13 and warrant of the state comptroller out of moneys appropriated by the  
14 legislature for such purpose to the credit of the local assistance fund  
15 in the general fund of the state treasury.

16      § 22. Section 14-100 of the election law is amended by adding three  
17 new subdivisions 12, 13, and 14 to read as follows:

18      12. "clearly identified candidate" means that:

19      (a) the name of the candidate involved appears;

20      (b) a photograph or drawing of the candidate appears; or

21      (c) the identity of the candidate is apparent by unambiguous refer-  
22 ence.

23      13. "general public audience" means an audience composed of members of  
24 the public, including a targeted subgroup of members of the public;  
25 provided, however, it does not mean an audience solely comprised of  
26 members, retirees and staff of a labor organization or their immediate  
27 family members or an audience solely comprised of employees of a corpo-

1   ration, unincorporated business entity or members of a business, trade  
2   or professional association or organization.

3    14. "labor organization" means any organization of any kind which  
4   exists for the purpose, in whole or in part, of representing employees  
5   employed within the state of New York in dealing with employers or  
6   employer organizations or with a state government, or any political or  
7   civil subdivision or other agency thereof, concerning terms and condi-  
8   tions of employment, grievances, labor disputes, or other matters inci-  
9   dental to the employment relationship. For the purposes of this article,  
10   each local, parent national or parent international organization of a  
11   statewide labor organization, and each statewide federation receiving  
12   dues from subsidiary labor organizations, shall be considered a separate  
13   labor organization.

14   § 23. Section 14-106 of the election law, as amended by section 2 of  
15   part E of chapter 399 of the laws of 2011, is amended to read as  
16   follows:

17    § 14-106. Political communication. The statements required to be filed  
18   under the provisions of this article next succeeding a primary, general  
19   or special election shall be accompanied by a copy of all broadcast,  
20   cable or satellite schedules and scripts, internet, print and other  
21   types of advertisements, pamphlets, circulars, flyers, brochures,  
22   letterheads and other printed matter purchased or produced, and repro-  
23   ductions of statements or information published to one thousand or more  
24   members of a general public audience by computer or other electronic  
25   device including but not limited to electronic mail or text message,  
26   purchased in connection with such election by or under the authority of  
27   the person filing the statement or the committee or the person on whose  
28   behalf it is filed, as the case may be. Such copies, schedules and

1 scripts shall be preserved by the officer with whom or the board with  
2 which it is required to be filed for a period of one year from the date  
3 of filing thereof.

4 § 24. The election law is amended by adding a new section 14-107 to  
5 read as follows:

6 § 14-107. Independent expenditure reporting. 1. For purposes of this  
7 article:

8 (a) "Independent expenditure" means an expenditure made by a person  
9 for an audio or video communication via broadcast, cable or satellite or  
10 a written communication to a general public audience via advertisements,  
11 pamphlets, circulars, flyers, brochures, letterheads or other printed  
12 matter and statements or information conveyed to one thousand or more  
13 members of a general public audience which: unambiguously refers to and  
14 advocates for or against a clearly identified candidate or expressly  
15 advocates the success or defeat of a ballot proposal, and such candi-  
16 date, the candidate's political committee or its agents, or a political  
17 committee formed to promote the success or defeat of a ballot proposal  
18 or its agents, did not authorize, request, suggest, foster or cooperate  
19 in any such communication. For the purposes of this definition, a commu-  
20 nication advocates for or against a candidate when it (i) irrespective  
21 of when such communication is made, contains words such as "vote,"  
22 "oppose," "support," "elect," "defeat," or "reject," which call for the  
23 election or defeat of the clearly identified candidate, or (ii) within  
24 one year of the election but more than sixty days before a general or  
25 special election for the office sought by the candidate or thirty days  
26 before a primary election, could only be interpreted by a reasonable  
27 person as advocating for the election or defeat of the clearly identi-  
28 fied candidate in such election based upon unequivocal, unambiguous

1   terms of support or opposition, or (iii) within sixty days prior to a  
2   general or special election for the office sought by the candidate or  
3   thirty days before a primary election, includes or references a clearly  
4   identified candidate.

5    (b) Independent expenditures do not include expenditures in connection  
6    with:

7      (i) a written news story, commentary, or editorial or a news story,  
8      commentary, or editorial distributed through the facilities of any  
9      broadcasting station, cable or satellite unless such publication or  
10     facilities are owned or controlled by any political party, political  
11     committee or candidate; or

12     (ii) a communication that constitutes a candidate debate or forum; or  
13     (iii) internal communication by members to other members of a member-  
14     ship organization, for the purpose of supporting or opposing a candidate  
15     or candidates for elective office, provided such expenditures are not  
16     used for the costs of campaign material or communications used in  
17     connection with broadcasting, telecasting, newspapers, magazines, or  
18     other periodical publication, billboards, or similar types of general  
19     public communications; or

20     (iv) a communication published on the Internet, unless the communi-  
21     cation is a paid advertisement.

22     (c) For purposes of this section, the term "person" shall mean person,  
23     group of persons, corporation, unincorporated business entity, labor  
24     organization or business, trade or professional association or organiza-  
25     tion, or political committee.

26     2. Whenever any person makes an independent expenditure that costs  
27     more than one thousand dollars in the aggregate, such communication  
28     shall clearly state the name of the person who paid for, or otherwise

1 published or distributed the communication and state, with respect to  
2 communications regarding candidates, that the communication was not  
3 expressly authorized or requested by any candidate, or by any candi-  
4 date's political committee or any of its agents.

5     3. (a) Any person who makes any independent expenditure in an upcoming  
6 calendar year shall first register with the state board of elections as  
7 a political committee in conformance with this article.

8       (b) Any person who is registered pursuant to paragraph (a) of this  
9 subdivision shall report independent expenditures over one thousand  
10 dollars to the state board of elections on a statement in the form set  
11 forth in subdivision four of this section and at times set forth in this  
12 subdivision.

13       (c) Any contribution over one thousand dollars made to any person who  
14 has registered with the state board of elections pursuant to paragraph  
15 (a) of this subdivision prior to thirty days before any primary, genera-  
16 al, or special election shall be disclosed by such person to the state  
17 board of elections electronically within forty-eight hours of receipt.

18       (d) Any contribution over one thousand dollars made to any person who  
19 has registered with the state board of elections pursuant to paragraph  
20 (a) of this subdivision within thirty days before any primary, general,  
21 or special election shall be disclosed by such person to the state board  
22 of elections electronically within twenty-four hours of receipt.

23       (e) A knowing and willful violation of the provisions of this subdivi-  
24 sion shall subject the person to a civil penalty equal to five thousand  
25 dollars or the cost of the communication, whichever is greater, in a  
26 special proceeding or civil action brought by the board or imposed  
27 directly by the board of elections.

1       4. Each such statement in subdivision three of this section shall  
2       include, in addition to any other information required by law:

3       (a) the name, address, occupation and employer of the person making  
4       the statement;

5       (b) the name, address, occupation and employer of the person making  
6       the independent expenditure;

7       (c) the name, address, occupation and employer of any person providing  
8       a contribution, gift, loan, advance or deposit of one thousand dollars  
9       or more for the independent expenditure, or the provision of services  
10      for the same, and the date it was given; provided, however, the name and  
11      address of a member of a labor organization is not required for a  
12      contribution, gift, loan, advance or deposit to a labor organization;  
13      and provided further that the name and address of an employee of a  
14      corporation, unincorporated business entity or a member of a business,  
15      trade or professional association or organization is not required for a  
16      contribution, gift, loan, advance or deposit to such corporation, unin-  
17      corporated business entity or business, trade or professional associ-  
18      ation or organization respectively;

19      (d) the dollar amount paid for each independent expenditure, the name  
20      and address of the person or entity receiving the payment, the date the  
21      payment was made and a description of the independent expenditure; and

22      (e) the election to which the independent expenditure pertains and the  
23      name of the clearly identified candidate or the ballot proposal refer-  
24      enced.

25      5. A copy of all political communications paid for by the independent  
26      expenditure, including but not limited to broadcast, cable or satellite  
27      schedules and scripts, advertisements, pamphlets, circulars, flyers,  
28      brochures, letterheads and other printed matter and statements or infor-

1 mation conveyed to one thousand or more members of a general public  
2 audience by computer or other electronic devices shall be filed with the  
3 state board of elections with the statements required by this section.

4 6. Every statement required to be filed pursuant to this section shall  
5 be filed electronically with the state board of elections.

6 7. The state board of elections shall promulgate regulations with  
7 respect to the statements required to be filed by this section and shall  
8 provide forms suitable for such statements.

9 § 25. The election law is amended by adding a new section 14-125 to  
10 read as follows:

11 § 14-125. Required sharing of information. Any item required by this  
12 article to be filed with the New York state board of elections relating  
13 to any referendum authorized by the state legislature following second  
14 passage of a concurrent resolution to amend the state constitution to  
15 permit or authorize casino gaming shall be shared forthwith by the New  
16 York state board of elections with the New York state gaming commission.

17 § 26. Subdivisions 3, 4 and 5 of section 14-126 of the election law  
18 are renumbered subdivisions 4, 5 and 6 and a new subdivision 3 is added  
19 to read as follows:

20 3. Any person who falsely identifies or fails to identify any inde-  
21 pendent expenditure as required by subdivision two of section 14-107 of  
22 this article shall be subject to a civil penalty equal to one thousand  
23 dollars or the cost of the communication, whichever is greater, in a  
24 special proceeding or civil action brought by the state board of  
25 elections chief enforcement counsel or imposed directly by the state  
26 board of elections. For purposes of this subdivision, the term "person"  
27 shall mean a person, group of persons, corporation, unincorporated busi-

1    ness entity, labor organization or business, trade or professional asso-  
2    ciation or organization or political committee.

3    § 27. Subdivisions 1 and 2 of section 14-108 of the election law,  
4 subdivision 1 as amended by chapter 955 of the laws of 1983, and subdivi-  
5 sion 2 as amended by chapter 109 of the laws of 1997, are amended to  
6 read as follows:

7    1. The statements required by this article shall be filed at such  
8 times as the state board of elections, by rule or regulation, shall  
9 specify; provided, however, that in no event shall the board provide for  
10 fewer than three filings in the aggregate in connection with any prima-  
11 ry, general or special election, or in connection with a question to be  
12 voted on and two of said filings shall be before any such election,  
13 including one such filing not less than thirty days nor more than  
14 forty-five days prior to such election and one such filing not less than  
15 eleven days nor more than fifteen days prior to such election. In addi-  
16 tion, the board shall provide that every political committee which has  
17 filed a statement of treasurer and depository shall make at least one  
18 filing every six months between the time such statement of treasurer and  
19 depository is filed and the time such committee goes out of business. If  
20 any candidate or committee shall be required by the provisions of this  
21 section, or by rule or regulation hereunder, to effect two filings with-  
22 in a period of five days, the state board of elections may, by rule or  
23 regulation, waive the requirement of filing the earlier of such state-  
24 ments, except that the requirement to file any statement pursuant to  
25 section 14-107 of this article shall not be waived. If a statement filed  
26 by a candidate or committee after the election to which it pertains is  
27 not a final statement showing satisfaction of all liabilities and dispo-  
28 sition of all assets, such candidate or committee shall file such addi-

1 tional statements as the board shall, by rule or regulation provide  
2 until such a final statement is filed.

3     2. Each statement shall cover the period up to and including the  
4 fourth day next preceding the day specified for the filing thereof[;  
5 provided, however, that]. The receipt of any contribution or loan in  
6 excess of one thousand dollars shall be disclosed within forty-eight  
7 hours of receipt, and shall be reported in the same manner as any other  
8 contribution or loan on the next applicable statement. However, any  
9 contribution or loan in excess of one thousand dollars, if received  
10 after the close of the period to be covered in the last statement filed  
11 before any primary, general or special election but before such  
12 election, shall be reported, in the same manner as other contributions,  
13 within twenty-four hours after receipt.

14     § 28. Section 104 of the racing, pari-mutuel wagering and breeding law  
15 is amended by adding a new subdivision 21 to read as follows:

16     21. The commission shall promptly make available for public inspection  
17 and copying via electronic connection to the commission's website a copy  
18 of any report received from the New York state board of elections pursu-  
19 ant to article fourteen of the election law.

20     § 29. Section 1617-a of the tax law is amended by adding two new  
21 subdivisions g and h to read as follows:

22     g. Every video lottery gaming license, and every renewal license,  
23 shall be valid for a period of five years, except that video gaming  
24 licenses issued before the effective date of this subdivision shall be  
25 for a term expiring on June thirtieth, two thousand fourteen.

26     The gaming commission may decline to renew any license after notice  
27 and an opportunity for hearing if it determines that:

1       (1) the applicant has violated section one thousand six hundred seven  
2 of this article;

3       (2) the applicant has violated any rule, regulation or order of the  
4 gaming commission;

5       (3) the applicant or its officers, directors or significant stockhold-  
6 ers, as determined by the gaming commission, have been convicted of a  
7 crime involving moral turpitude; or

8       (4) that the character or fitness of the applicant is such that the  
9 participation of the applicant in video lottery gaming or related activ-  
10 ities would be inconsistent with the public interest, convenience or  
11 necessity or with the best interests of video gaming generally.

12       h. (1) Every video lottery gaming licensee shall adopt a code of  
13 ethics and conduct periodic ethics audits assessing compliance with and  
14 the efficacy of the code of ethics.

15       (2) On an annual basis, the gaming commission shall conduct an ethics  
16 audit of every video lottery gaming licensee including reviews of the  
17 officers, directors, and ownership of every video lottery gaming licen-  
18 see. The video lottery gaming licensee shall reimburse the commission  
19 for the cost of the ethics audit.

20       (i) Such audit shall review compliance with the licensee's code of  
21 ethics and the efficacy of the licensee's code of ethics.

22       (ii) Such audit shall establish, if necessary, an ethics implemen-  
23 tation plan for resolving ethical issues found in the licensee's oper-  
24 ations.

25       (iii) Such audit shall review the overall character and fitness of the  
26 officers, directors, and significant stockholders, as determined by the  
27 gaming commission, to determine whether the continued participation of  
28 such officers, directors, and significant stockholders would be incon-

1 sistent with the public interest, convenience or necessity or with the  
2 best interests of video gaming generally.

3 (iv) Based upon the findings of the audit, the gaming commission,  
4 subject to notice and an opportunity for hearing, may revoke, suspend,  
5 and condition the license of the video gaming licensee, order the video  
6 gaming licensee to terminate the continued appointment, position or  
7 employment of officers and directors, or order the video gaming licensee  
8 to require significant stockholders to divest themselves of all inter-  
9 ests in the video gaming licensee.

10 § 30. Clause (G) of subparagraph (ii) of paragraph 1 of subdivision b  
11 of section 1612 of the tax law is REPEALED.

12 § 31. This act shall take effect immediately; provided, however, that:

13 (a) sections one, two, five, nine and ten of this act shall take  
14 effect on the first of January next succeeding the date upon which the  
15 people shall approve and ratify amendments to subdivision 1 of section 9  
16 of article I of the constitution by a majority of the electors voting  
17 thereon relating to casino gambling in the state;

18 (b) sections six, seven, fourteen and sixteen of this act shall take  
19 effect on the same date as the agreement between the Oneida Nation of  
20 New York and the state of New York entered into on the sixteenth day of  
21 May, two thousand thirteen takes effect; provided, further, that the  
22 amendments to subdivision 2 of section 99-h of the state finance law  
23 made by section six of this act shall take effect on the same date as  
24 the reversion of such section as provided in section 2 of chapter 747 of  
25 the laws of 2006, as amended; provided, further, that the amendments to  
26 subdivision 3 of section 99-h of the state finance law made by section  
27 seven of this act shall be subject to the expiration and reversion of  
28 such subdivision as provided in section 3 of part W of chapter 60 of the

1 laws of 2011, as amended when upon such date the provisions of section  
2 seven-a of this act shall take effect; provided, further, that the  
3 amendments to subdivision 3 of section 99-h of the state finance law  
4 made by section seven-a of this act shall be subject to the the expira-  
5 tion and reversion of such section as provided in section 2 of chapter  
6 747 of the laws of 2006, as amended when upon such date the provisions  
7 of section eight of this act shall take effect; provided, further,  
8 however, that the amendment to section 99-h of the state finance law  
9 made by section nine of this act shall not affect the expiration of such  
10 section and shall be deemed repealed therewith; provided, further, that  
11 the state gaming commission shall notify the legislative bill drafting  
12 commission upon the occurrence of such agreement between the Oneida  
13 Nation and the state of New York becoming effective in order that the  
14 commission may maintain an accurate and timely effective data base of  
15 the official text of the laws of the state of New York in furtherance of  
16 effecting the provisions of section 44 of the legislative law and  
17 section 70-b of the public officers law;

18 (c) Notwithstanding the foregoing, sections nineteen, twenty and twen-  
19 ty-one of this act, shall only be effective in the event that an amend-  
20 ment to the constitution to authorize casino gambling is defeated.

21 (d) section 1368 of the racing, pari-mutuel wagering and breeding law,  
22 as added by section two of this act, shall take effect upon a change in  
23 federal law authorizing the activity permitted by such section or upon a  
24 ruling by a court of competent jurisdiction that such activity is  
25 lawful. The state gaming commission shall notify the legislative bill  
26 drafting commission upon the occurrence of the change in federal law or  
27 upon the ruling of a court of competent jurisdiction in order that the  
28 commission may maintain an accurate and timely effective data base of

1 the official text of the laws of the state of New York in furtherance of  
2 effecting the provisions of section 44 of the legislative law and  
3 section 70-b of the public officers law.